



Third Session - Thirty-Sixth Legislature

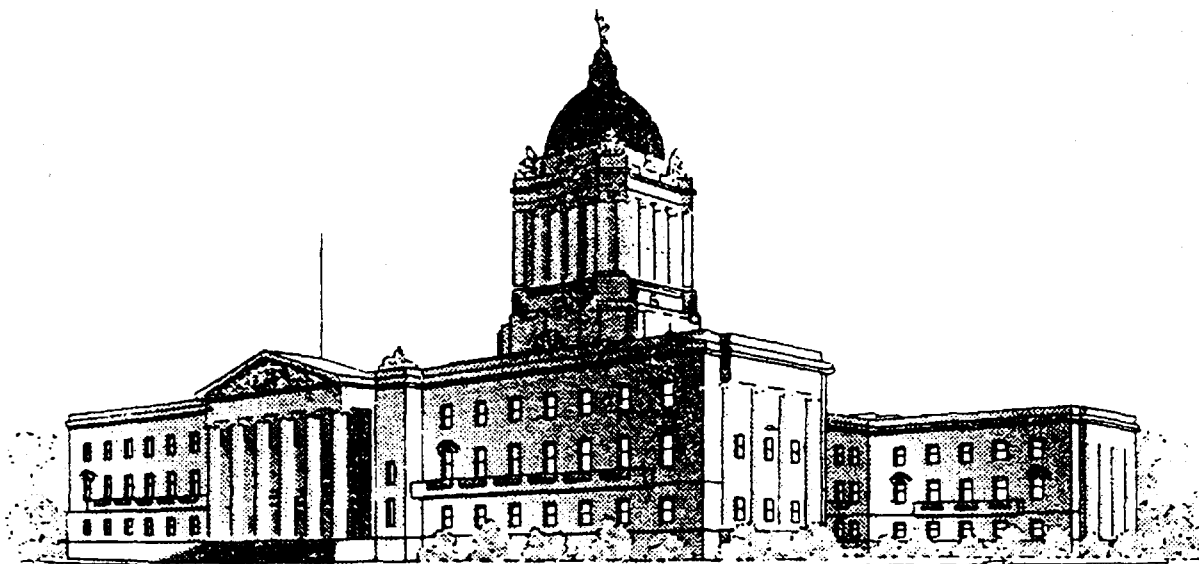
of the

Legislative Assembly of Manitoba

**DEBATES
and
PROCEEDINGS**

**Official Report
(Hansard)**

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Speaker*



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, June 19, 1997

The House met at 10 a.m.

PRAYERS

ORDERS OF THE DAY

House Business

Hon. James McCrae (Government House Leader): Madam Speaker, would you be so kind as to call second readings on the following bills: 36, 59, 15, 32 and 61.

DEBATE ON SECOND READINGS

Bill 36—The Wildfires and Consequential Amendments Act

Madam Speaker: To resume second reading debate on Bill 36, the proposed motion of the honourable Minister of Natural Resources (Mr. Cummings), The Wildfires and Consequential Amendments Act (Loi sur les incendies échappés et modifications corrélatives), standing in the name of the honourable member for Transcona (Mr. Reid). Is there leave to permit the bill to remain standing?

An Honourable Member: No.

Madam Speaker: No. Leave has been denied.

Mr. Stan Struthers (Dauphin): Madam Speaker, I am pleased this morning to rise on behalf of this side of the House and put some statements on record in terms of Bill 36, The Wildfires and Consequential Amendments Act.

This province, as we have learned—especially in the recent history and certainly in the couple of years that I have been a member in this Legislature—has become no stranger to disasters. I am not talking about the usual disasters that this government perpetrates on the citizens of Manitoba. I am talking about those natural disasters that Mother Nature throws at us from time to time. Most recently, of course, we have spent a lot of time battling the flood of the century, a disaster in

which we saw Manitobans all pull together to help each other, a disaster that although I regret having happened, I will be one of the first to acknowledge that it did bring out the best qualities of Manitobans.

Other disasters that we have witnessed over the history of our province include disasters in the agricultural sector with disease or with drought or with insects, grasshoppers. The list of disasters goes on and on. This spring, as well, we had a blizzard that dumped tons of snow, it seemed, on southern Manitoba. Again, Manitobans pulled together and came through and helped each other out in their time of need.

What this bill deals with is another one of those disasters which are all too commonplace in our province, and that, of course, is fire, whether it be a prairie grass fire that I have been unfortunate enough to come to know living out on the prairies as a rural Manitoban, or forest fires throughout the north part of our province, again which I do have a little bit of experience at as a resident of Norway House just prior to a massive evacuation of the citizens of Norway House because of the fire that took place there back in the 1980s.

The purpose, as I see it, with this bill, Bill 36, is simply to update The Fires Prevention Act with regard to jurisdiction, fire prevention, permits, the power of officers and fines.

Madam Speaker, I think this is a topic that those of us here in the Legislature have to take very seriously, especially in terms of the causes of fires that hurt so many people, cause so much damage to property and are generally a challenge for all of us as Manitobans that we have to stand up and rise to.

Kind of starting backwards with several things that I indicated were the components of this bill, let us deal with the area of fines. Unfortunately, what we have noticed is that too high a percentage of the fires that we deal with are not caused by natural causes. They are not caused by anything that I would consider acceptable. They are not caused by accidents, although

some are. There are a percentage of fires that are caused by humans.

To begin with, Madam Speaker, you can make an argument for fires being a natural phenomenon and fires being part of the rebirth of the forest stock that we have out there in our province. It is totally natural for a forest to cleanse itself through fires. Without fires, there might be uncontrollable outbreaks of disease, there may be uncontrollable outbreaks of pestilence. So fires, on the one hand, are totally natural. A fire started by lightning, for example, is totally natural. It occurred well before humans ever settled this area. It is something that has gone on in our history for the totality of our history. What has not always happened is, either through arson or through carelessness, humans setting fires and watching our forests and timber go up in smoke, and that we have to deal with. That is partly what this bill does. It increases the fines for people who are caught setting these fires and causing a lot of destruction, a lot of damage and a lot of hurt for people who have homes and businesses and cottages and whatever else in our natural areas.

Another key part of this bill clarifies firefighting responsibilities between the province and other jurisdictions such as the federal government and the R.M.s across our province, the municipal level. It also clarifies the jurisdiction between the province and First Nations communities, band councils, Northern Affairs communities. That kind of clarification, I understand, is very much greatly appreciated by those other levels. If we are going to be doing a concerted effort of fighting a forest fire or a grass fire of a major proportion, then we have to understand exactly the role of each of the levels of government in fighting that fire—not just in fighting that fire, I want to add, but in compensating the victims of that natural disaster.

The bill also enhances fire prevention regarding commercial operations and railways, including a higher degree of inspection on equipment and hazardous materials. That again, I believe, is a positive step.

This bill also gives more power to officers to use current firefighting techniques and wildfire operations, and the ability to appoint fire guardians to assist in fire prevention and fire control. Certainly, Madam Speaker, one of the key components of any fire fight is to have

enough people there to fight the fire, have the jurisdiction question settled so that the people who are at the scene know what they are supposed to be doing and having enough people there to actually fight the fire.

One of the criticisms that this government has come under, from not just this side of the House but from groups around the province concerned with natural resources, is the amount of people that the Natural Resources department has laid off over the last several years. The one fear that people have is that the Department of Natural Resources leaves itself undersupplied with people who can be doing some of these good things on behalf of the people of Manitoba. So I am pleased to see that part of Bill 36 there. I think it will go a way at least in helping us fight the fires that no doubt again this spring and this summer we will be facing.

Bill 36 also outlines procedures for burning permits, travel permits and work permits in a more defined way related to the area and the weather conditions. I want to key in that section, particularly on burning permits as a way in which humans can actually have some type of control and prevention before a fire ever gets to the point where it has started and gone out of control. A lot of common sense needs to be used in the area of issuing burning permits, and a lot of common sense needs to be used by those who are actually out there and burning for purposes that may actually be legitimate.

* (1010)

Along that vein as well, I would encourage the government to embark on a very comprehensive education strategy. Now I know that there has been some work done in this area over the past number of years, work that has been going on well before this government ever took its seat on the government side of the House, work that I think has paid off in spades in educating people in terms of how to properly deal with fire. An example of this is education that has gone on in terms of campgrounds. Many of the fires that we have are innocently started out at a campground, a family picnic someplace. Unbeknownst to the people who start the fire, they end up setting not just their own little campsite ablaze, but they end up ruining large stands of timber and creating a lot of destruction. Now

the best way I think of attacking that problem is through a very comprehensive, well thought out, effective education strategy, and I think it has to come from this government. I think the provincial government has to take the lead in educating people on the dangers of fire and helping people understand the techniques that they can use to not have a fire get out of control. That, I think, the government needs to take a look at.

Of course, at the outset of the remarks that I put on the record today, I did talk about the fines and not just the fines but jail sentences that the minister speaks of in this Bill 36. People have to know that this is a serious problem. You cannot only do it through penalties. I think you have to, as a government, take a very proactive role in educating people as to the dangers of fire and equipping people who use fire with some knowledge to minimize the amount of damage that fires do to the people and to the properties in our province.

So with that, Madam Speaker, I will conclude my remarks by saying that I look forward to the discussion that will take place in the public hearings, and I thank you for the opportunity to speak on Bill 36.

Madam Speaker: Is the House ready for the question?

An Honourable Member: Question.

Madam Speaker: The question before the House is second reading of Bill 36. Is it the will of the House to adopt the motion?

An Honourable Member: Agreed.

Madam Speaker: Agreed. Agreed and so ordered.

Bill 59—The Conservation Agreements Act

Madam Speaker: To resume second reading debate on Bill 59 on the proposed motion of the honourable Minister of Natural Resources (Mr. Cummings), The Conservation Agreements Act (Loi sur les accords de conservation), standing in the name of the honourable member for Transcona (Mr. Reid).

Is there leave to permit the bill to remain standing?
No. Leave has been denied.

Mr. Stan Struthers (Dauphin): Madam Speaker, I am very much pleased to stand and speak on Bill 59, The Conservation Agreements Act. I am sure that the Minister of Natural Resources is very much looking forward to the remarks that will come from this side of the House. As he has indicated to me, he looked forward very much to the input that he received from other people on conservation agreements, because this is not a new issue. This is an issue that has been around for a while. In a sense, I do congratulate the current minister for bringing forth an act, a bill to this House for this discussion to take place. I think that if we are going to be serious about conservation, if we are going to be serious about setting land aside to be used for conservation purposes, then indeed we do have to have an extensive discussion, an extensive debate on something as important as the setting aside of land for the purposes of conservation.

Actually for me, this bill does have personal significance. Our family does have a half section of land west of the town of Swan River, so ably represented by my colleague from Swan River. On that land, we do have about 42 or 43 acres of spruce bluff. It was the original quarter section that my dad bought back in the early 1960s. My dad, through his own decision, decided to leave that 43 acres of spruce bluff on the northwest corner of that quarter section. Now once my dad had died, my family had a decision that we had to make. Were we going to sell the land, or were we going to rent the land out? What were we going to do with this half section of land? One of the biggest factors in our decision to keep the land was, for me at least, this 43 acres of spruce bluff on the northwest corner of this quarter section, because within that 43 acres, there is a multitude of vegetation and plants.

Madam Speaker, some of the most beautiful ferns grow right in the middle of that spruce bluff. It is full of squirrels and different birds. If you take a walk through that 43 acres of land—[interjection] Singing birds. If you walk through that 43 acres of land, you could come across coyotes, deer, and as well it is situated about halfway between the Duck Mountains and the Porcupine Mountains in which, quite often, a small herd of elk beds down as they travel between the two mountains. Now the member for Elmwood (Mr.

Maloway) thought I would work elk into my speech somehow today and there it is.

My neighbours in the area have, to one degree or the next, begun the process of removing their parts of that spruce bluff and, Madam Speaker, I am determined not to. I am determined to leave that 43 acres in its natural state. I think Mother Nature does a very good job of managing that 43 acres of spruce bluff.

Madam Speaker, this Conservation Agreements Act will allow me and my family to take that land and set it aside so that other generations can enjoy what that 43 acres has to offer. I am sure, as well, the elk will appreciate it and the songbirds and the coyotes and the squirrels and all those ferns that I mentioned a little earlier.

Madam Speaker, it is important that we as a society understand the importance of land being set aside and kept in its natural state. Indeed, in the 1980s–1987, I believe—the Brundtland Commission made recommendations on specifically natural areas, areas to conserve what nature has to offer to us. Our governments have signed on to the Brundtland Commission Report and have said they are going to take 12 percent of their land and designate it as a natural area.

Well, I would like to think that my family and I are taking that to heart. I mean, we are not doing it just because of the Brundtland Commission; we are doing it because we think it makes sense. I do not think the Struthers family in the Swan Valley see this any differently than most families around the province of Manitoba, and I think that most families would appreciate the opportunity to take whatever amount of land they want and set it aside for whatever time period they feel is necessary. Some families may choose to set aside lands. Some landowners may choose to set aside land in perpetuity, and I think that is good.

* (1020)

I am aware that in parts of the United States they limit the amount of land that can be set aside in perpetuity. One example that comes to mind just quickly is a 30 percent limit that is imposed by the state on the amount of land that can be set aside in

perpetuity. That, to me, does not make sense, and in a way I commend the minister for not looking at limitations on perpetuity.

I think that if any landowner wants to set aside a parcel of land for conservation purposes and that landowner wants it to run in perpetuity, then all the more power to him, and this act allows him to do that or her to do that. If the landowner then does not want to set aside land for perpetuity, he can sign one of these conservation agreements under Bill 59 and set up a time period that that landowner is more comfortable with.

The landowner could set up an agreement with a conservation district, for example, for 20 years, 15 years, 30 years, knowing that every 20 years they can go back and review the agreement, and at that time if the landowner can say, well—he can get out of the agreement by saying that there is an unreasonable burden on me financially, I am really missing out on something, and he can renegotiate that agreement, or he can get out of the agreement if he wants.

The advantage to that, I believe, is that will encourage more people to consider conservation agreements from the outset. If it was just perpetuity, if that was the only option, then it is my belief that there would not be very many Manitobans opting into a conservation agreement to begin with. So the bill, in my opinion, offers that kind of flexibility for people to opt into conservation agreements and set aside land for the reasons of conservation.

Now just who is it that can enter into these agreements? Who can enter into an agreement with the landowner for the purposes of a conservation agreement? Well, it could be a corporation, it could be a not-for-profit corporation, the Canadian government, the Crown in right of Manitoba, the provincial government. It could be a Crown corporation, whether it be federal or provincial. A landowner could actually enter into a conservation agreement with a municipality or local government district, and it could also enter into an agreement with a conservation district.

Now that leads to something that I think has to be considered by this government. I think there are several things that the government has to think about as this bill

passes through public hearings and eventually into law with whatever amendments may come forth.

One of the things that the government has to deal with I think is regulations governing what can be done with an area of land that has been set aside for the reasons of conservation. What if land is set aside for reasons other than conservation? Obviously, that runs counter to a conservation agreement. That is not the purpose of what the act is doing, and the government I think needs to keep its eyes open for things that happen on set-aside land that in some way, shape or form does not conform with conservation. I am worried that we get into situations where land is set aside under the guise of conservation maybe, and then very much a pro-development attitude is taken with the land that is set aside for conservation. That, I do not think runs in harmony with the intent of The Conservation Agreements Act.

Again, one of the ways I think that the government can deal with the attitude towards conservation easements, conservations agreements, is through education. At this point, I want to congratulate the conservation districts in our province that do an admirable job in educating people as to the necessity of conservation districts, of conservation easements, conservation areas, and in fact conservation itself. I think that many conservation districts are doing an excellent job in promoting the concept of conservation and, Madam Speaker, not just conservation districts.

Throughout Manitoba I am aware of many groups that in my opinion have done an excellent job in promoting conservation of all kinds, whether that be through fish enhancement groups up in the Parklands area in Swan Valley and Intermountain based in Dauphin, wildlife groups that embark on projects to conserve wildlife habitat, groups that embark on projects to enhance waterfowl habitat. There is a whole host of groups out there in our province that are really doing a good job of educating people as to the benefits of conservation. This act I think has the potential of working in harmony with the groups out there already that are doing an admirable job in promoting conservation.

For me, Madam Speaker, most of all the conservation act is a recognition that Mother Nature does know what she is doing, that if we let Mother Nature make more of

the decisions in our environment, then the environment is going to be a healthier place for us to live and for future generations to live. Sometimes we humans let our egos get the better of us, and we start making decisions on behalf of Mother Nature. Mother Nature has been here a lot longer than us humans. She knows what she is doing. This is one way in which we can allow Mother Nature to take her course and I think produce a much better environment in which all of us can live.

The one thing particular to this bill that I do want to mention before I close my comments is that this agreement does also create a Conservation Agreements Board which provides a forum for discussion for the interested parties and to resolve the disputes that may come out of these conservation agreements. The disputes that relate to conservation agreements can be dealt with by the Conservation Agreements Board. That is key to this legislation. Whenever we humans get together and work at a project, there is the possibility that a dispute will erupt. It happens, so what we need to do is look at ways in which we can effectively deal with those disputes. The Conservation Agreements Board is going to be absolutely key in the successful application of what I see in Bill 59.

So, Madam Speaker, I commend this bill to the next stage in its legislative life. I look forward to hearing presentations at public hearings, and thank you again for the opportunity to speak on this bill today.

Mr. Kevin Lamoureux (Inkster): Madam Speaker, we also want to put a few words on the record with respect to this particular Bill 59, The Conservation Agreements Act. It is indeed a very positive act. It is something which ultimately will be to the betterment, we believe, of the province by allowing for the different agencies, whether it is the federal Crowns, to the provinces, municipalities, to nonprofit organizations or corporations, I should say, or conservation districts—this particular piece of legislation is yet another tool that will allow the facilitation of more enhancement of our natural ecosystems, as pointed out, additionally wild life or fisheries, plant, animal species and so forth, which is a very positive thing.

So, with those very few words, I am pleased to say that we give full support to Bill 59 as a very positive move on behalf of the government.

* (1030)

Madam Speaker: Is the House ready for the question? The question before the House is second reading, Bill 59, The Conservation Agreements Act. Is it the will of the House to adopt the motion?

Some Honourable Members: Agreed.

Madam Speaker: Agreed and so ordered.

Bill 15—The Government Essential Services Amendment Act

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

An Honourable Member: No.

Madam Speaker: No. Leave has been denied.

Mr. Daryl Reid (Transcona): I am pleased to rise today to add my comments to Bill 15, The Government Essential Services Amendment Act. Last session in the fall of 1996 we had the opportunity to comment on The Government Essential Services Amendment Act at that time, which I believe was Bill 17. At that time we pointed out to the government a number of glaring weaknesses in the legislation that they had and our preference to have in place a voluntarily negotiated essential services agreements between the various unions representing the workers involved in government-related activities and the government as the employer. We always said that it was preferable to have voluntarily negotiated agreements.

We still feel the same way with respect to this piece of legislation here today. I want to add right at the start of my comments here today, as we did last time, last fall under Bill 17, that we very much support the concept of protecting the life and limb, the health and safety of the individual Manitobans that would require certain services, whether it be in the health care

facilities or in home care or in other areas with respect to personal care homes, but we do believe that it is preferable that the government would negotiate those agreements on a voluntary basis with the unions versus having the heavy hand of government and the hammer hanging over the heads of those negotiating parties as is the case with this bill and its predecessor, Bill 17.

Madam Speaker, I was involved in the committee hearings on Bill 17 last fall. I listened to the presentations of the members of the public that came forward and the positions that were brought forward by those members of the public, which included employers, unions and individuals, working and living and having family members in certain government facilities or being part of certain government operations. We pointed out the glaring weaknesses of Bill 17 at that time, and in fact we tabled and introduced a number of amendments to Bill 17, which if I recollect correctly, none of which were accepted by the government. We thought that because of those weaknesses and because the government refused to accept those amendments, we were unable to support that bill, and, indeed, we did vote against that particular bill.

One of the presentations that came forward during the committee hearings on Bill 17 was a presentation by the Manitoba Health Organization, MHO. I listened quite intently to what MHO said because under Bill 17, at that time, the MHO presented to the then Minister of Labour, Mr. Toews, and committee members that they wanted to have the health care facilities of the province included under the essential services agreement. In fact, it is interesting to note the comments by the then Minister of Labour who pointed out quite clearly that he was very much in favour of including the health care facilities in under the essential services agreement, and he was quite prepared at that time to go against what would have been standard practice and expand the scope of the bill, even though it was out of scope at the time.

It is interesting to note that during the presentation by MHO that they said that they had asked government for some time to include health care under the essential services agreement. In fact, there is a quote here by MHO from Hansard of last year that says that in November of '91 recommendations emanating from a

survey that MHO had undertaken were approved by the board and forwarded to the ministers of Health and Labour and that they were not aware of any action having been taken by the government on those recommendations.

Yet, when we listened to the comments by the Minister of Labour then, Mr. Toews, he said that even though MHO had not made a presentation yet, he was quite anticipating that they would be coming forward asking for and recommending that government include health care facilities under the essential services agreement, and his comments in Hansard do reflect that, even though MHO had not made the presentation at that time. So the government clearly had some communication and ongoing dialogue with MHO and was giving serious consideration at that time to including the health care facilities under essential services.

We pointed out at that time that there were a number of unions and employers that had already negotiated the essential services agreement—and I am talking of a voluntary essential services agreement—and that there seemed to be no problem at that time. Yet MHO came along in their presentation last fall and said that the essential services agreements were not working, that they were a failure, that they failed to achieve what was intended for them to do.

Yet when we look along, Madam Speaker, at the comments of the presenter for MHO at that time—and I can only go back to see the conflict in the words that MHO had, because I take it that it is MHO that is driving the changes to the essential services agreement here today in Bill 15. On the one hand, MHO is saying that the voluntary essential services agreements that they have in place are not working, and yet when you look at the comments further in their presentation, they say that they work with unions and they have a consensus, they often achieve consensus, and they think that they can continue along that path because they have been able to achieve consensus in so many areas.

So there was a conflict in the presentation itself by MHO which I find quite striking, and, yet, now we see here today that through Bill 15 the government has introduced the essential services agreement which

includes the organizations covered under the umbrella of MHO and other organizations.

Madam Speaker, this bill proposes to change the wording, striking out the word “government” that had been included in Bill 17 and substituting that with wording under the definitions that would describe a series of employers, and in that list it includes the government of Manitoba in its dealings with its various capacities and departments. It includes persons or an entity owning or operating a personal care home as defined under The Health Services Insurance Act. It includes Child and Family Services agencies incorporated under The Child and Family Services Act, regional health authorities which are just coming into being now through their nondemocratic, unelected, politically appointed board members. St. Amant Centre and Pelican Lake Centre are included under the definition of employers.

It is interesting to note that the government, while it is going through the process now of privatizing the adoption services of the province and allowing for the various services to be put out to independent or private agencies, whether or not under this new legislation those particular agencies will also be covered as essential services. I am not sure if the government is clear on what is happening between the two departments here. Are those private adoption agencies now going to be covered under this essential services agreement? Is that going to be termed essential service? There may be other areas that I have not considered or thought of at this time, but that is one that comes to mind, considering the legislation that is before us in this Chamber.

Madam Speaker, at the time when Bill 17 was introduced to this House, we saw that the voluntary essential services agreement was the way to go because some of them had been in place for some time and they appeared to be functioning. Judging by at least some of the comments by the presenter, MHO, last fall, there seemed to be some areas where there could be consensus achieved. We thought that if the government gave some encouragement to the parties that further agreements could have been put in place. Instead, the government chose to silence the words and the voices of the people who are working in the particular sectors that the government deemed to be essential.

* (1040)

It was quite a broad range of services that they brought in under the umbrella of the essential services agreement. It did not just include life and limb security for Manitobans. It included property and government facilities that would be protected under that particular agreement, and that the employees themselves would not have a voice in determining who would and who would not be deemed to be essential services.

We pointed out at that time last fall that the government would have the final say right down to the naming of the individual who would be involved in providing essential services in the event of a strike or a lockout. We thought that was unfair, that there should have been some negotiation taking place to determine what is and what is not an essential service.

I mean, is the person who cuts the grass or tends to the gardens around the hospitals in the province here, because it is a health care facility, is that an essential service? Yet it is my understanding that the government can name that individual or individuals to continue to perform the service under the essential services agreement should there be a strike or lockout. There is no clear definition here, and that is why we thought it was better to negotiate what would be required.

I recall back to 1991, when the nurses decided to withdraw their services in this province, and I walked on those picket lines with the nurses and talked to them to find out what their concerns were. Only being a new MLA at the time, I was not totally familiar with what was happening, and I wanted to educate myself. One of the things that struck me was the dedication and the strong will that the nurses had in protecting the patients who were in the hospital, even though those nurses were in a legal strike position and withdrew their services. They put their staff and they arranged for their own members to go into the hospital and tend to the emergency cases and tend to the needs of the patients within the hospital. That is something that always struck me as being a very, very thoughtful organization in wanting to ensure the life and security of the patients in the hospital system. I will never forget that.

So that tells me that there is some good will on the part of unions within the province to want to work within the capacity of the function, whether it be in health care or other areas of government services for which the government pays, wants to work and to do their jobs and to make sure that people are not put at risk, but at the same time to recognize that they have a right to withdraw their services should their employer, which in that case was the government, not want to negotiate in good faith.

Madam Speaker, it was interesting to note that after a period of time the parties were able to come to an agreement, and that, of course as we know, the nurses returned to work. MHO, at that time, may have had some problems which they did not draw to our attention in opposition. They may have sent information to the government, and if that is the case, we think that is unfortunate. It would have been nice if they had some concerns, they could have shared them with all members of the Legislature, but I am unaware of that taking place, other than what MHO said they sent to the Minister of Labour (Mr. Gilleshammer) and the Minister of Government Services (Mr. Pitura).

Madam Speaker, Bill 17 was brought in during the home care strike, as the government's answer to addressing the intended actions of those that were employed in the home care field, people that were being paid minimum wage or slightly above, services that the government wanted to privatize and that the home care workers were opposed to and withdrew their services. Yet, at the same time, in another example, the home care workers in some cases continue to provide services to their clients, even though they were in a legal strike position. So they respected the rights and the needs of those in our society that wanted and needed to have that particular service continued, and at the same time recognized that they had a legal right to withdraw their services when they disagreed with their employer, which was the government of Manitoba, whose intent was to privatize home care services.

All of us in this Chamber know that there was strong, very strong public support for the position of the home care workers of our province. You only needed to judge driving around our communities the number of signs, the lawn signs that were put up to save home care in our province, to recognize, and judging by the

number of calls and letters that we got from members of the public, even including in my own community, people who would stop me on the street or stop me in the store and saying the government was wrong in their attempts to privatize home care services. Yet Bill 17 at that time was the government's answer to legislating away the ability of the home care workers to take the action they deemed necessary to protect their own jobs, their own livelihood. The government, through Bill 17, at that time, legislated away that right of those people, because the government can now indicate right down to the individual who is and who is not an essential service worker.

Madam Speaker, if the voluntary essential services agreements did not work in this province, and it is my understanding that MHO is a signatory to those agreements and is a party to those agreements, why did they sign those agreements if they thought they would not work?

I have never heard MHO say to this point that they should not have signed those agreements. So I must conclude from that that they are in some cases, if not all cases, working. Yes, it requires some further consideration and some further work to process who is and who is not considered to be essential in the event of a strike or lockout, but I believe if there had been a serious interest on the part of the parties involved, both the employer and the employees, that those agreements could have continued to be ironed out and that we would not have had to proceed to Bill 15 here today.

In this particular agreement, this is once again putting power into the hands of the employer because it provides a window of opportunity for an essential services agreement to be negotiated prior to the termination of a collective agreement between particular facilities or operations of government and now other parties outside of government and the employees themselves. There is a window of opportunity under this legislation for that agreement, but what remedy is in this legislation that would say, if one party or the other fails to negotiate in good faith, that this legislation should be thrown out, should be not considered?

For example, and I am not saying that it is just strictly employers that take a hard line during negotiations,

because I know full well that both parties when they go into the negotiating table they take a hard line and are unwilling to back down on certain items that they deem essential to the signing of a new collective agreement. I mean that is recognized throughout our country.

The thing that bothers me about this legislation, in addition to the other areas that I have already mentioned, is that this again provides a way of terminating an essential services agreement. If I interpret this legislation correctly, the employer or the union could terminate an essential services agreement that may be in place prior to at least a hundred days before the expiry of the collective agreement. If an employer, for example, knows that they are going to be in for a hard round of bargaining and it could be very acrimonious at the negotiating table and they know they want to have certain conditions come out of that particular negotiation, what is to preclude an employer from saying and serving notice upon the union that they terminate the essential services agreement that may be in place, another hammer being held over the heads of the employees knowing full well that at the end of the day the government, through its legislation, can implement that legislation and determine who will and who will not be working in the event of a strike or lockout.

So the employer again has the upper hand through the negotiating process, because they can, knowing full well that the essential services agreement will kick in. The government, who is the employer in some cases, and other employers, knowing full well that they have the right to bargain from an increased and unbalanced position of strength when we know full well that at negotiating tables the parties should be in many cases equal through the negotiating process and they should be able to work out their differences, in some cases, yes, with an arbiter or with a mediator or conciliator. We recognize that is required from time to time, but in this legislation it says that one party or the other can terminate an essential services agreement that may have been negotiated.

* (1050)

We think that provides an unfair advantage in the case of negotiations because, as we full well know under Bill 17, the only thing that can go to the Labour

Board under dispute are the employees themselves who are required to work. No other conditions apply. Bill 17, last fall, saw to that. The only thing that can be in dispute is who is and who is not required to work under the essential services agreement. There are no other provisions that can be considered by the Labour Board from my recollection of Bill 17. So if there is a failure to negotiate in bad faith, as we well know, that can take a considerable period of time to work out.

What this legislation does, Madam Speaker, this legislation creates winners and losers through the process. Yes, as I said at the beginning of my comments, there is a need here to protect the life and limb of Manitobans, the health and security of Manitobans. We recognize that, but we would prefer to see that that protection is undertaken with further negotiations through the voluntary agreements. I see no public crisis at this time that would require the government to take further steps unless they are anticipating, as the employer of this province, moving into negotiations with their government workers, which would include health care people, that they anticipate there is going to be a further hard line taken either by government or by the unions through this negotiating process.

Perhaps the only vulnerable people that the government is looking to protect, as they did under Bill 17, are the Conservative politicians of this province, who are vulnerable to the will of the public, as they saw during the home care strike when the public very clearly indicated their support for the home care workers of this province, and the government members knew they were vulnerable in this area, and that is why they are bringing in this legislation, Bill 17 and Bill 15, here today. They are vulnerable if they do not limit the powers and the ability of working people to be able to withdraw their services if they do not agree with the position taken by their employer, recognizing as they have done so many times that I have pointed out here today that they have a responsibility to the public to protect those vital services. People working in those areas know full well. They are responsible adults. They are responsible union members. They are responsible members of our society in the public. They know what role they have to play and they protect those roles as we have so many times seen.

The government says, and this is another area that strikes me as unusual, you are bringing in an essential services agreement or an enhancement or an expansion of the essential services agreement under Bill 15 here today, expansion of Bill 17 last fall, and yet you continue to cut back on government departments and services.

How can you say that those departments are essential, and you continue to cut back on them? I do not understand the logic that you are using. Either they are essential and you need to have those people performing those duties, or they are not essential and you go about your business, your philosophy of continuing to cut them. I do not agree with that, but that is the position your government is taking, so if you juxtapose those two positions, they do not balance out. I cannot understand the logic that you are using in that.

There are two tests. I believe there are at least two tests that you should have undertaken before you introduced this bill. The first one was to protect the life and limb of Manitobans and the second test, is this fair? I believe that you have failed on those tests. You have gone way beyond what is essential, what is required. You could have negotiated in good faith, but you chose to hold the hammer over the heads of those people that are employed in those particular sectors.

It appears very clear that the government's approach with respect to Bill 17 last fall and Bill 15 here again today is that it is your way or the highway in negotiations. I do not think that that is appropriate. We would hope that there would be some balance and that you would have considered going the route of having the voluntary essential services agreement negotiated.

One of the other areas that you failed on here to address is any remedies. I only have to look to the example that was in *The Globe and Mail* on June 4. Perhaps the minister may have received a copy. No doubt he has as Minister of Labour (Mr. Gilleshammer) because it involves Ontario's proposals for sweeping labour laws. I can only reflect back on what happened last session during 1996 when the government undertook to consolidate the power into the hands of the government, into the Lieutenant Governor in Council, and under authority of that office to distribute or to hand over some of those powers to the various

ministers of government, to consolidate those powers and the ministers would make decisions.

Ontario is taking much the same steps that you are, that your government has been leading the way on in consolidating that power and taking away the ability of working people to have some determination of their own future. The Ontario government is bringing in place legislation that will suspend the right to strike for municipal and school board employees during the restructuring of the government. So even the Ontario government, much the same as this government, is choosing to concentrate power into the hands of government to prevent working people from having any meaningful say in what is taking place, so it appears that you did the groundwork. You are a leader in this area. There is no doubt, because the Ontario government appears to be following your example now, and I am not sure if that is such a proud record to have.

The Ontario government followed your example of consolidating and concentrating power into the hands of government and not giving working people the opportunity to have any meaningful say in what is taking place. That is not the way I want my government to work. That is not the way I want, as a member of society, to have my government overrun or run roughshod over my rights and my ability to have some say in what happens in my own life, as I believe that the workers in those particular sectors would like to have that say, to be a party to.

At the end of the day, yes, sometimes government has to make some decisions that are tough. There is no doubt, but at the same time there should be some steps that are taken to negotiate voluntary essential services agreement. I do not believe, looking back at the timing of the legislation that was introduced on Bill 17 last year, that there was even a serious interest by the former Minister of Labour, the member for Rossmere, because he only introduced that legislation days before and wanted the unions to negotiate a voluntary essential service agreement days before the home care workers withdrew their work.

So it was not negotiating in good faith on the government's part, and again we see the government is holding the heavy hammer over the heads of workers, and you are going to disadvantage the people that are

working in those particular sectors, whether it be in the health care sector, whether it be in other government services, highways, whether it be in Child and Family Services. Yes, you have a responsibility, but you can negotiate agreements. I have talked with people in the labour movement asking about whether or not there is any progress on the negotiating of the voluntary essential services agreements. I hear of very little, if any, progress in that regard. So I have to think, the only conclusion I can draw is that there is not a serious interest on the part of the parties or the government to want to conclude those agreements.

So, Madam Speaker, what we suggest is there needs to be a remedy, because in the future there will be times come to this government or to successive governments where you are going to need to have a remedy in place for people who are going to get very irate at the government's decisions. Whether or not you have legislation in place or not, you are faced with the distinct possibility, as they are in other jurisdictions of Canada, of working people saying: Enough is enough. We are not going to follow that course of action. We believe we have a right to determine our own future to some degree.

* (1100)

The government withdrew final offer selection as a remedy back in 1991 which, we thought, was a big mistake. You have no process here that allows for arbitration as a course of action, as a remedy to things that may be in dispute. You will allow for the government through its legislation to impose your will upon the parties, and you would think that you would have a process, a remedy process that would encourage, not discourage, voluntary essential service agreement negotiation. So you have three areas that you could have chosen to address as remedies to items that are in dispute, which are not included in this legislation, and I would encourage you as the minister and the government responsible for introducing this bill to consider amendments to the bill and to the legislation that would provide a process or a remedy for issues that are in dispute.

So, Madam Speaker, we are prepared to go to committee to hear members of the public who may come forward and to listen to their comments, as we

did during Bill 17 last fall, and to ask questions of the government with respect to their intent. But we hope that the government will be listening and that there will be some cooler heads that prevail with respect to negotiating those essential services agreements on a voluntary basis, because I think there is some room for progress if there is encouragement by the Minister of Labour (Mr. Toews) and by the government itself to those parties.

I know the Minister of Labour is involved through his department or is knowledgeable of because his responsibility also includes the Civil Service Commission, which does negotiating on behalf of government. I understand that there can be a potential conflict there, but there is no doubt that he is kept apprised of negotiations. So he is aware of what is and what is not progressing. But we would encourage this government to listen to members of the public who have said, not just listen to the employers, because it is funny when it came time to the various things—the recommendations that come from various members of the public, including the LMRC—the government chose to listen to the LMRC on the workplace safety and health side, but when it came to listening to the LMRC on Bill 26 labour legislation last fall, they totally ignored that particular body.

So you pick and choose, you cherry-pick the things that you are going to listen to. That is what is disturbing. There is no consistency in your actions as a government, but I will get more into that when we move into debate on the next piece of legislation which, I believe, is Bill 32, The Workplace Safety and Health Amendment Act, perhaps, in a few moments.

Madam Speaker, we are looking forward to this bill proceeding to committee to listen to members of the public and have a chance to ask more questions with respect to Bill 15, but we find that, as we did under Bill 17, there are glaring weaknesses in the legislation itself. At this point, we cannot support the government's actions and the way they have structured Bill 15 here today.

Mr. Kevin Lamoureux (Inkster): Madam Speaker, the people of Manitoba must be afforded some protection of essential services during a strike. It is for the government of the day, no matter if they are

prounion or antiunion, to develop procedures that address labour-management issues. We believe that Bill 15 attempts to set this agenda. If no agreements on essential services has been reached, then 90 days prior to the expiry of a collective agreement labour and management must conclude an essential service agreement. I suspect the key to protecting Manitobans is not putting ourselves in a position where we face undue labour-management strife.

Madam Speaker, listening to the member for Transcona (Mr. Reid) and reflecting on previous legislation and previous issues with relation to labour strife, I wanted to add a few comments. I recall the emergency services at our hospital facilities, where the doctors were going on strike and there was in fact only one political party inside this Chamber which was demanding immediate action for the people of the province. That was, in fact, the Liberal Party. We believed that the doctors are absolutely essential in our emergency facilities within our hospitals. We recognize that, and that is the reason we had asked for legislation to demand that they go back to work. We have recognized the importance of essential services from day one, and I use the emergency services as the example in terms of the type of action that we have taken in the past.

We raised a great deal of concern when the government introduced the legislation, and I believe it was Bill 17 from last year, which they brought in at a time when, again, we had a lot of labour strife, that being home care services, and we raised the issue of, did the government have any intention of trying to legislate these home care service workers or of trying to bring them into that particular piece of legislation?

There has been a great deal of concern with respect to how this government has dealt with government workers. I can recall this government, where it has reached an agreement with the civil service and then it has cancelled that agreement or just, in essence, thrown it into the trash in favour of a zero percent freeze. This government has not been above board with civil servants through the years, and that is putting a large question mark as to why it is that it is moving on essential service legislation. So we have the government on one hand doing that, and we have the official opposition, not wanting to be outdone, that is

prepared to do whatever it takes in order to solidify the union elite or the very few from within the union movement that are giving them their marching efforts.

The member for Elmwood (Mr. Maloway) makes reference to Bernie, and I concur with the member for Elmwood that Bernie is one of those individuals that gives the marching orders to the New Democrats in terms of exactly what it is that they have to do and what it is that they have to say. The member for Dauphin (Mr. Struthers) salutes old Bernie, or I should say young Bernie.

Well, we all know full well that the New Democrats do not necessarily protect the vested interest of the average Manitobans or the average worker. We saw that when we talked about the emergency strike over at our hospital facilities. Why were they not joining us in demanding for getting these people back into our emergency facilities? Well, the simple reason is that it is a very delicate issue for them. They do not want to do anything that is going to upset the applecart in terms of some of the support that they get from the union elite. I emphasize that it is the union elite. That is something which at some point in time they have to come to grips with.

It was interesting. I have been saving somewhat of a speech that no doubt I will give at some point in time and will expand on it, but I had seen the member for Radisson (Ms. Cerilli) on TV where she was talking about the new left and the new left is where the direction of the New Democratic Party is going to be. Well, that so-called new left is sounding more like a Liberal, and if you want to be Liberals, I would suggest to you, instead of trying to convert the New Democrats into Liberals, why do you not try to become a Liberal as opposed to—you know, if you are not happy being a New Democrat, I strongly recommend and encourage you to reconsider maybe your allegiances within the New Democratic Party, and do not try to create a new Liberal Party from within the New Democratic Party.

It was amazing when I had heard that, but I can appreciate the concern because what has happened is that the NDP—and I listened to the member for Transcona (Mr. Reid) very carefully, and his concern in his speeches prior has always had that very strong union elite approach to dealing with labour issues

inside this Chamber. Yes, the Conservatives have been fairly bad when it comes to labour negotiations. They have been on that other extreme, but, Madam Speaker, the NDP are scary when it comes to labour negotiations. I would be very fearful if that particular member was the minister responsible for Labour, because then I think what would end up happening is we would be going way overboard to the other extreme.

That is not what Manitobans need; that is not what the average worker needs. What the average worker needs is a political party that is going to bring a sense of fairness, a sense of harmony to labour relations in the province of Manitoba. They have not seen that with the Conservative government, and I can assure, and I will assure that we would not see that under a minister such as the member for Transcona. I do not want to impute motives to the member for Transcona, but I would hazard a guess that indeed he is very heavily influenced by the very few from within the union movement that take that very hard line. That is somewhat scary in the sense that we have seen New Democratic governments in the past that have tilted to a certain degree some aspects of labour legislation that really give a complete disregard for businesses, small companies. Well, with this particular member, and having listened to speeches from the past from this member, I would be very nervous if in fact he was ever provided the opportunity to set the legislation.

* (1110)

Suffice to say we recognize the importance of essential services. We are concerned in terms of the direction that this government wants to take essential services or how it is attempting to qualify those essential services, how it might be not necessarily in our best interests, given the background of this government. It is a bit confusing in terms of trying to read into what exactly it is that they are trying to accomplish, and that is primarily because of the way that they have treated labour and in particular the civil servants of the province of Manitoba. So there is a great deal of concern, and that concern will in fact continue because they have such a poor track record with respect to the Civil Service and labour disputes.

That is the reason why I would suggest to you, Madam Speaker, in this particular area more than most

areas inside this Chamber, a little bit more common sense, and why it is necessary for individuals, I would argue such as myself and other liberally minded individuals, to stand up and say, enough is enough; let us stop the extreme attitudes on labour coming from the far left—as the member for Radisson (Ms. Cerilli) would call it, the new left—or from the Conservative Chamber of Commerce. Maybe it is time that we start doing what a majority of labour actually wants, the majority of union membership wants, and that is to be treated in a fair fashion, to be provided legislation that provides for harmony within the workplace, more than anything else.

No one wins when there is a strike; both labour and management lose when there is a strike. That is just the sign that in essence what we need to do is to provide better tools that will facilitate more peace from within the labour-management relations. We need to get political parties inside this Chamber more in tune of putting aside some of their biases and some of their people who happen to be heavily weighted into their pocket, if I can put it that way, in favour of having more of a common sense approach at dealing with labour relations in the province of Manitoba.

Mr. Steve Ashton (Thompson): Madam Speaker, I must say, I want to thank the member for Inkster for his speech because I think in a matter of minutes he summed up why the Liberal Party, with this approach to labour relations, has taken their number of seats in 1988 from 20 seats, down to three, down to two. This is the “Honey, I shrunk the party” party. For this member to lecture members of the New Democratic Party about being in anyone's pockets—you know, it is interesting because when it comes to political parties in this province, and I say this to Conservative members, I know at times we say that they have a lot of corporate support, which they do, but you know what? Guess which party in this province gets the highest percentage of support from corporations.

An Honourable Member: Who, who?

Mr. Ashton: Well, it is not the New Democrats, believe you me. It is not even the Conservative Party. It is the Liberal Party. They get more money from corporations than any other party. It is interesting, because what terrible thing did the member for

Transcona (Mr. Reid) say today that started this tirade from the member for Inkster. He talked about negotiations. I mean, what a terrible approach to things, negotiations. He said, do not take a heavy-handed approach to labour relations. Have negotiations. You know what I find interesting is that, within the member for Inkster's own comments, there was a complete contradiction. Did you notice at the end he said how he wanted alternate ways to strikes and whatnot? Let the member for Inkster not forget that one of the reasons that the Liberal Party went from 20 seats down to seven in 1990, down to three, down to two, and we are still counting, was because in 1989 they supported the government in getting rid of final offer selection, a mechanism that avoided strikes and lockouts and gave an alternative. I say, Madam Speaker, to the member for Inkster—

Madam Speaker: Order, please.

Point of Order

Mr. Lamoureux: Madam Speaker, on a point of order. You know, Beauchesne's is, in fact, fairly clear in the sense that it is not appropriate to impute motives per se. I wanted to make reference to the fact that the member for Thompson said that we, in essence, killed final offer selection. The record should show that it was the New Democrats that killed final offer selection by not agreeing to a compromise amendment that would have ensured that it prevailed. So the member for Thompson is fully aware of that and, had he voted properly back then, we could still have it today. The New Democrats put the death nail in it.

Madam Speaker: The honourable member for Inkster does not have a point of order.

* * *

Mr. Ashton: Madam Speaker, not only that, he does not remember what happened, because in 1989 we had the situation where what they did, what they proposed was to extend final offer for six months, kill it off, and then study it afterwards. That is what they did and they were so adept at parliamentary maneuvering, they moved an amendment. What was interesting is we came into the House afterwards and the combined strength of the Conservatives and the NDP defeated the

matter as amended because even the Conservatives, who wanted to kill it off, saw the absurdity of this idea of killing it and then studying it. Even they understood. Unfortunately, for the Liberals, they still do not know what hit them in 1989.

I want to say to the member for Inkster, he should be careful when he talks about labour unions because you know what is interesting is that when you looked at what happens in terms of the labour movement, I can tell you one reason I believe that the Liberal Party has ended up in this position today. I think, by the way—and I say to the member for Inkster, if you would care to take his comments today and send it to a lot of people in Inkster—that he would find a lot of his own constituents who actually even vote for the member for Inkster would be offended by what he has said. Is he saying that people who are members of unions do not have the intelligence to decide what is good for them and their families? Is that what he is saying? They voted for the member for Inkster, they voted for me in Thompson. You know, unions, believe you me, if you look at the way they operate, are some of the institutions where you get the most debate, discussion, and democracy. [interjection]

Well, it is interesting that the member keeps talking about Bernie Christophe, because the member should talk to the members at UFCW in the north end of Winnipeg, in Inkster, in The Maples, and there are a lot of people over the years who have given a lot of support to the UFCW. Unions right now cannot survive. They are not like elected officials in this House where we have constituencies no matter what. Unions constantly are in the position of having to organize and to receive support from memberships. They are in a position—thanks to this government, it has been much more difficult for members of the public to join unions.

What is interesting is, you know, even the Tories—and I do not think anyone would accuse the Tories of being friends of labour and I certainly would not—but I wonder why it takes a Liberal member to give some of the most vociferous attacks on unions and the labour movement. I wonder why. I think what it is is quite interesting, because this member, the member for Inkster (Mr. Lamoureux), I think understands one thing,

and that is the failure of the Liberal Party in the last decade to take roots in this province. It is interesting; where did they win most of their seats in 1988? The vast majority were in areas that were previously held by the NDP.

I say to the member for Inkster—he may wish to listen to his former colleague who I think sent a real message to the people of Manitoba by doing something that was not very easy, I know, and that is to not sit in the Liberal caucus. I say to the member for Inkster, he of all people should be the first one to speak out against the Tuxedo establishment Liberals who have been running the Liberal Party, including the Liberal Party in the north end, for the last decade and have taken the party from 20 seats down to two, and we are still counting, Madam Speaker. I say listen to what the member for The Maples (Mr. Kowalski) has been saying.

* (1120)

You know, parties have to have some sense of the importance of the areas of the province that are represented, and I am proud to be in the only party in this Legislature that has support in all three areas of Manitoba. I say to the member for Inkster, I believe one of the problems that the Liberal Party has had in this province is that it has been run by people who do not understand areas of this province, whether it be northern Manitoba or the north end, and it is the kind of bashing of labour unions that the member for Inkster went through I think is part of that.

I ask him to reconsider that, because I believe that one of the reasons you get elected in Inkster or The Maples, there are a lot of union members, a lot of people who support their unions vote for you. So what you are doing—and I say this to the member for Inkster—is you are biting the hand that feeds you. But that is okay. We will take your speech. I may xerox about 6,000 or 7,000 copies and take it around Inkster with me. But I say talk to the member for The Maples (Mr. Kowalski) because he sent a clear signal about one of the problems your party had. Do not lecture us in the New Democratic Party. We are, I believe, showing our strength by the fact that we represent all regions of the province.

I want to finish off, Madam Speaker, by saying that I, for one, am proud to be a member of a party that speaks out day in and day out for the working people of this province, whether they are represented by unions, whether not represented by unions, that is our strength, and we have nothing to apologize for, especially with the Liberal Party. We stand for the working people of this province, and when I look at 23 New Democrats and I look at two Liberals, I think that speaks for itself.

Madam Speaker: Order, please. Is the House ready for the question? The question before the House is second reading of Bill 15.

Is it the will of the House to adopt the motion?

An Honourable Member: Agreed.

Some Honourable Members: No.

Madam Speaker: No?

Voice Vote

Madam Speaker: All those in favour of the motion, please say yea.

Some Honourable Members: Yea.

Madam Speaker: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Speaker: In my opinion, the Yeas have it.

Mr. Daryl Reid (Transcona): Madam Speaker, on division.

Madam Speaker: On division.

Bill 32—The Workplace Safety and Health Amendment Act (2)

Madam Speaker: To resume second reading debate, on the proposed motion of the honourable Minister of Labour (Mr. Toews), Bill 32, The Workplace Safety and Health Amendment Act (2) (Loi no 2 modifiant la Loi sur la sécurité et l'hygiène du travail), standing in

the name of the honourable member for Dauphin (Mr. Struthers).

Is there leave to permit the bill to remain standing?

An Honourable Member: No.

Madam Speaker: No? Leave has been denied..

Mr. Daryl Reid (Transcona): Madam Speaker, I am pleased to rise today to add my comments on to Bill 32, The Workplace Safety and Health Amendment Act.

Madam Speaker, before I get into my comments about Bill 32, I am not really sure what it was that incited the member for Inkster (Mr. Lamoureux) to make the statements, the antiworking people statements, that he made in this Chamber here today, but I take great offence to the position he has taken with his statements here today. Because what I was attempting to do was to be constructive in my comments and to ask the government to consider the actions involving voluntary essential services agreement that would be negotiated between the parties. Not in any way to say that the government must take action as an employer, but in the sense of fairness, to put in place at least a remedy that would permit that to happen which would be final offer selection, voluntary essential services agreement or some type of an arbitration process or conciliation process to allow those agreements to be concluded.

Madam Speaker, I support the protection of the life and limb of Manitobans. We have a responsibility in this Legislature in that regard, but the position that the member for Inkster took today, opposing and railing on the working people of this province, is abhorrent from my viewpoint. I do not support the position taken by the member for Inkster.

Madam Speaker, I am looking very much forward to the time where I am going to have the chance to canvass in the riding or the constituency of Inkster—

An Honourable Member: With that speech.

Mr. Reid: —with that speech in hand to the working people, as we have in the past talked to the members, the residents of Inkster, about their concerns.

Considering the number of working families that we encountered in that community, it is going to be quite interesting, I am sure, for them to hear what position the member for Inkster has taken.

An Honourable Member: You will be in the Senate anyway, will you not, Kevin?

Mr. Reid: Perhaps the Minister of Justice (Mr. Toews) is right. Perhaps the member for Inkster will be in the Senate. I know his previous leader said that the Senate was a place that should be abolished, but then again there are good appointments and there are bad appointments. So I am not sure whether the member for Inkster will get one of those good appointments at the same time he is railing against probably the Senate, at the same time as he has on Labour people.

An Honourable Member: Like Ginny Hasselfield, she got her stuff before she got promoted.

Mr. Reid: Oh, yes. Yes, she got her contracts long before she got involved I am sure. [interjection] Yes, it is quite interesting to hear, but then again we heard how members of the Liberal Party think about their own leader.

We are here today to talk about Bill 32, The Workplace Safety and Health Amendment Act. This is an area that we have been raising questions on with respect to the safety of working people in this province since at least I came to this Chamber, and I know, searching back in Hansard and talking to my colleagues, even long before that. This is an area that has some very serious concerns with respect to the enforcement of the act and to the provisions that are put in place. We have taken the opportunity through Question Period here for the last several weeks to ask questions of both the Minister of Labour (Mr. Gilleshammer) and the Minister of Justice (Mr. Toews) with respect to the enforcement of the act.

To this point, I am extremely discouraged by the government's failure in this regard. In my previous speech on Bill 15, The Essential Services Amendment Act, I pointed out, the government, when they had a recommendation by the LMRC, Labour Management Review Committee, on Bill 26 last year, that they

rejected the recommendations of the LMRC last year and went their own way. Yet what the minister is saying here today, through this piece of legislation, Bill 32, that he is accepting his advisory committee, which is comprised of labour and management, to only go this far in the penalty clause of The Workplace Safety and Health Act.

What the minister is proposing, Madam Speaker, because under the current legislation that was brought in, I believe, in the mid to late 1980s with these penalty provisions in place, that under today's standards are outdated and totally insufficient.

An Honourable Member: That was brought in, in the '70s, Workplace Safety and Health.

Mr. Reid: Yes, but if the former Minister of Labour would look back, he would see that under the continuing consolidations statutes of Manitoba that the date on that is 1987. So it was the previous government, at the end of its term of office, that brought in that particular legislation. Those fines may have been appropriate for that day and age but are totally inappropriate for this day and age, considering the problems that we are encountering in the province with respect to workplace safety and health.

Under this legislation that is in place now, the maximum fine level for a first offence under The Workplace Safety and Health Act is \$15,000. Now, I have had the opportunity to talk with many people in our communities through Manitoba about the level of fines in this province. Every person that I have talked to has said that the level of fines is totally insufficient and totally outdated and, yes, there needs to be a revamping of The Workplace Safety and Health Act penalty provision. The current level of fines, as I have said, is \$15,000 for a first offence, and for second and subsequent offences it is \$30,000 maximum. There is also provision in the act that would allow for a jail sentence to be added to that, up to six months. Although the part that I find most distressing, considering the number of serious cases that have come to my attention, not one company officer, not one person has been sentenced to any jail time. In fact, the maximum fines that I have seen are in the range of \$6,000 to \$7,000 per offence.

So it is very obvious that the courts in this province, and perhaps through the Prosecutions branch of the Department of Justice, do not take seriously the Workplace Safety and Health offences of this province where people are seriously injured, maimed or killed in the workplace. I can only point to the example of the young man who was so horribly burned in that fire while working in the employ of the Power Vac company in this province, where that young man went into a worksite to clean a duct at Motor Coach Industries and was not provided with an escape plan, with the appropriate safety equipment and the appropriate precautions or warnings to protect his life and safety.

* (1130)

Madam Speaker, the result of those actions as a result of that court case was some \$6,000 to \$7,000 in fines against the corporation, against that particular company, and the individual will never ever be the same, mostly likely will never enjoy the same things, the same quality of life that members of this Chamber take for granted. That is the part that disturbs me the most is that this young man who is in his very, very early 20s is continuing to have to go through skin graft operations, which would take a considerable amount of years to conclude that process.

Yes, that is being paid for by the Workers Compensation system of the province, and, yes, when there was wage loss involved the individual received his wage loss, but it is my understanding that the mother of the young man has to tend to the needs of the young man himself today. The part that disturbs me the most, from what I am being told, and I still have to search this out, is that there is no compensation to the family members who have to tend to the needs of that young man.

There is a glaring weakness within the compensation system to attend to the additional benefits that should be paid to that family as an attendant fee for family members who have to help that young man progress through the recovery phase after that horrible burn that he sustained. Yet the fine itself that was levied on that company under two counts was, I think, between \$6,000 and \$7,000. I have to ask, I ask myself this every day, I stand before the mirror getting ready to

leave my home, I have to look myself in the mirror every day and I have to say, have we treated that young man fairly? Have we looked after his needs? Have we looked after his family's needs? Have we taken the right educational steps that the government and Minister of Labour (Mr. Gilleshammer) and the Minister of Justice (Mr. Toews) so often talk about? Has there been an education in this process? Will this prevent other accidents of a similar nature from occurring in the future? I have to say I do not think so.

Yes, you have taken steps through your Prosecutions branch, and this particular company has been fined \$6,000 to \$7,000 on each count of two counts, but you did not even ask for the maximum level of fines, and this is a point I am raising with the Minister of Justice. In your Prosecutions branch, sir, why do your prosecutors not ask, when you have such serious, serious problems happening to, in particular, the young people of our province who are inexperienced in workplaces and should have some guidance and some direction, why would the Prosecutions branch not ask for the maximum fine level in this type of case?

How can you and how can I and other members in this Chamber look ourselves in the mirror, knowing that that young man was not provided with the appropriate level of training, the appropriate escape plan and the appropriate safety equipment to allow him to proceed quickly out of a dangerous workplace in the event of a fire? Why was that other company that did the hiring of Power Vac not also charged for not providing information to Power Vac and to that young man about the dangerous situation into which he was attempting to crawl and work, that confined space in that duct?

So I have to say to you that The Workplace Safety and Health Act of this province is not working. The Prosecutions branch of this Department of Justice is not working in that regard in cases like that. I have to ask the Minister of Justice (Mr. Toews) and the Minister of Labour (Mr. Gilleshammer) both, what does it take before we as legislators responsible for the Labour department and the Justice department's Prosecutions branch would ask for the maximum level of fines?

Yes, we are proposing as an opposition through our Bill 201 to have the level of fines raised to half a million dollars and we want to have whistle-blower

protection, but why are we as legislators through the Justice Prosecutions branch not asking for the maximum level of fines? What does it take? What type of an accident does it take before we would ask for the maximum level? We could have it a hundred million dollars in fines, we could have it 50 years in jail, but if the Prosecutions branch is not going to ask for more than just the judge's discretion, then how are the courts of this province ever going to take seriously The Workplace Safety and Health Act?

That is a question I leave with you. I do not have an answer for it. I would hope that the Minister of Justice would provide some leadership and direction for the Prosecutions branch for the sake of the young man who was burned in the Power Vac fire, for the sake of the man who was poisoned in that methyl bromide poisoning while working for the Poulin's company where the appropriate safety equipment was not issued and Poulin's was fined. That man is a resident of my community of Transcona. The man is in a vegetative state now. You only need to drive by the front of his house to see the wheelchair ramp out the front door of the house on the main street of our community to know that that family with two children will never be the same.

You as members of government through the Prosecutions branch did not ask for the maximum in that case, and I know the Minister of Justice (Mr. Toews) says to us in the House here, well, there has to be some latitude given to the prosecutors to make a judgment call, but there also has to be some leadership shown within the departments of Labour and Justice in these matters.

We as legislators have to send the message to working people and to employers of this province that we take seriously The Workplace Safety and Health Act and safe workplaces of this province. By not asking in extremely serious cases for maximum penalties, people of this province, all people of this province, will never, never take this act seriously.

It is interesting to look at the various jurisdictions of Canada, and I have done comparisons. I do not know if the Minister of Labour (Mr. Gilleshammer) has ever gone to the Internet or not, but there are comparisons that the B.C. government has that are available. I have

talked to the governments of Saskatchewan and B.C. I have asked about Ontario—which are two jurisdictions out of the three that are bigger than the province of Manitoba, obviously, have more workers, to find out what they do. If you pull the B.C. example off the Internet, you will find comparisons of all of the jurisdictions of Canada with respect to the occupational health and safety of the workplace safety and health codes of the various provinces.

Saskatchewan, for example, has a structure in place that would allow for lesser fines where you have nonlife-threatening cases, much similar to what Manitoba currently does where you have low levels of fines. Yes, where you have stop-work warnings or stop-work orders that are not complied with, then there are more serious charges that would be brought, and when you have nonlife threatening there would be a lower level of fines. But as you move into a range in Saskatchewan where you have life-threatening, or potentially life-threatening, situations occur, the fine level jumps dramatically into, I believe, a range that the Minister of Labour is proposing through this bill here today, which is \$300,000 maximum on second offence. I think, if I recall correctly, Saskatchewan may be on first offence.

The B.C. example, Madam Speaker, is the most interesting of the examples, because they have a different approach and one that has caught my attention that I think can both fulfill the needs of education and fulfill the needs of those that do not wish to be educated where penalties or sanctions would apply. B.C. allows their occupational health and safety field officers to go into a worksite and to examine that worksite, and where they find there are dangerous situations occurring can issue immediate orders. I know Manitoba has legislation in place that would also allow for stop-work orders or warnings to be issued.

The problem with the examples that I have raised here with the Canadian Corrosion Control company is that you issued stop-work warnings in 1991, in August, and then went back a month later and asked the company why they had not complied. They gave you the example, well, we are a small company and we do not have much money, so we cannot afford to buy the safety equipment for our workers. I could not look myself in the mirror, as the Minister of Labour, if I let

that type of an excuse go by without sanctions being applied. That is why I have raised that case in this house. Why that case bothers me so much is because the company had example after example after example pointed out by Judge Minuk that said that the company was a bad actor, and the Workplace Safety and Health Branch of the Department of Labour did not take the appropriate steps at that time to go beyond the education step.

* (1140)

I have to ask myself—and I know none of the people in this Chamber here today will ever know for certain whether or not Andrew Kuryk's life will have been saved if we had taken steps in 1991 against that particular company. But I have to hope, and I still have hope that had we taken steps under the Workplace Safety and Health Branch, Andrew would have been with us here today, and his family would not have been going through the distress that they are. I know the family has been in contact with both the Minister of Justice (Mr. Toews) and the Minister of Labour (Mr. Gilleshammer), and that family is extremely distressed.

The other part that bothers me the most is as we pointed out in the Cordite example last year when the man was trapped in the trench and Cordite was allowed to close their tent, fold their tent up and go away and have another company ready to start up tomorrow under a new name—same owner, same operations. We are allowing people to escape any responsibility for their actions or inactions.

The same situation is applying with the Canadian Corrosion Control company here. That is why we have been raising it here in the House for the last two weeks. This company which has not gone bankrupt, they have not filed bankruptcy papers, they have only stopped operations. The Justice Prosecutions branch has stayed the charges against that company. Yes, you have a statute limitations of one year for prosecutions. That may not be appropriate. Perhaps the minister should consider amending that and raising that up to two or three or more years. I do not know what is allowable. I am not a lawyer. I would have to rely on other lawyers to find out what would be a reasonable period of time beyond the one year.

The question I have to ask when I look myself in the mirror every day is: Why was Canadian Corrosion Control, considering their record, allowed to escape responsibility for their inactions in properly affording a safe workplace for Andrew Kuryk? You, because I have no other recourse but to trust the words of the Minister of Labour (Mr. Gilleshammer) when he says to us in this Chamber that his department provided recommendations to the Justice department, that those recommendations named both the owners of the company and the company itself. So then I have to turn my attention to the Minister of Justice (Mr. Toews) and say to the Minister of Justice, if the Minister of Labour's department did their jobs and the Minister of Justice had the names of the owner of the company and the company name listed as a recommendation for prosecution, why did you not name both when you went to court, knowing full well that this company had a bad track record and that this company has used excuses in the past not to follow stop-work warnings that have been issued even while his predecessor, the Minister of Justice's predecessor as the Minister of Labour, Mr. Praznik, allowed that company to get away with it? You could have taken the appropriate steps to name the owners.

The problem I have today and the reason I continue to raise that case in Question Period is because if you look at Judge Minuk's report, it is very clear that there is a level of responsibility for the events that transpired in the death of Andrew Kuryk. Yet, no one, no entity, no person is being held responsible for their actions. I am not out to extract a pound of flesh here, but if we are going to send a message to the people of Manitoba, to the working people and to the employer's of this province, you as a government and we as an opposition have to take a first step to send that message. Under the legislation that is currently in place, we have never, from my research, ever prosecuted an owner or a director or a manager of a company with respect to a fatality in this province in a workplace. I have to ask why? Why has that never been undertaken?

I could not be a minister of the Crown and look myself in the mirror and know that the young man that was burned in the Power Vac, or the father of two children gas-poisoned in the Poulin's case, or the miner that was killed in the mine when director's orders had been in place, why action had not been taken to send a

stronger message. Why did you not ask? Why did not we as legislators ask? Why did the Justice Prosecutions branch not ask for stronger sanctions to apply?

We support higher penalties than what the minister is proposing here today. It is no secret. We have put that on the record already. You can have a million dollars in fines, and if you are not going to enforce the act to its maximum in serious cases like that, the act is totally useless. Your education process will never, never work if you do not have the final step in place and are willing to use it. There is an example of the student that goes through the education process, they are being educated all along the way, but at the end of the day there is a test, and if they fail they are out. There are steps, there are sanctions, there are consequences. In the Canadian Corrosion Control case there were no consequences—that is the part that bothers me—by the inaction of the Prosecutions branch and the Workplace Safety and Health Branch.

The B.C. government proposes to allow the field officers to take steps in the field where they can levy immediate fines. Did the government of Manitoba consider the B.C. model, where field officers were empowered to have and be able to take steps of levying immediate fines? Did the government of Manitoba consider allowing the publishing of names of the offenders of workplace safety and health violations as the government of B.C. does, and publish them over the Internet, readily available for any member of the public to view? There are many examples that we could have taken other than just raising the level of fines to \$150,000 for a first offence and \$300,000 for a second.

We could have blended and taken the best parts out of the Workplace Safety and Health or the Occupational Health and Safety of the other provinces, our brother and sister provinces of Canada, and made that the model, the appropriate model for workplace safety and health legislation in Canada. Instead, the Minister of Labour (Mr. Gilleshammer) chose to go the easy route, put it out to his advisory committee, which came back after much discussion with a compromise position that says only \$150,000 is appropriate.

Well, I say to the Minister of Labour, he may think that this is appropriate, but if his colleague the Minister of Justice (Mr. Toews) does not take the appropriate

steps through his Prosecutions branch to send a strong and clear message, he can have a million dollars in fines and it will not change one thing.

Madam Speaker, I think that the level of fines that the minister is proposing here is inadequate, judging by the comments of the widows and the families of those miners that have been killed up north who are asking for substantially more than what this government is offering through this legislation. We think that there needs to be a further consideration of this legislation in its totality, not just the penalty section as the government is proposing here.

You listened to your advisory committee, which was commenced by your predecessor, the now Minister of Justice, to raise those fines from \$15,000 first offence to \$150,000. That is a step, a first step. I do not think it is totally appropriate. I think it should be substantially higher.

If I am to listen and have to continue as a representative of my community and the Labour critic for our party to listen to those families that call my office, to have them crying on the other end of the phone because no one is being held accountable, I ask myself: Am I doing the best for the people of the province of Manitoba? At this point in time I have to say, no, we are not. We are not taking the appropriate steps. We could have gone much further to ensure safer workplaces in this province.

* (1150)

So I draw it to the attention of the Minister of Labour the example of British Columbia that could have been used as a model and should be used as one of the models, because members of your government have often said we should be pulling the good parts of other experiences of provinces in Occupational Health and Safety and Workplace Safety and Health across the other provinces of Canada and incorporating that into a model for which we can be leaders, for which we can be proud of in the province of Manitoba.

This Bill 32 here today does not make me proud. We are not being leaders. We are following the pack. We are in the middle of the pack, as a matter of fact, if you

judge by the examples that were on the Internet provided by the B.C. government.

So, Madam Speaker, I think that this legislation, while it does go a very small first step toward improving what is a dramatically imbalanced situation, that we must take stronger steps to send a message beyond just the education that both the Minister of Labour (Mr. Gilleshammer) and the Minister of Justice (Mr. Toews) talk about.

We have over 40,000 companies in this province, and I know we have had our disagreements here in this House about the number of field inspectors, and we will continue to have that disagreement because I think that the number of inspectors has been cut since your term of government started in '88. The problem is and the way you can solve it is to empower your field officers to give them the ability to immediately rectify situations that are occurring in the field.

If they had that power to levy those fines, similar to what B.C. is proposing, based on the payroll of a particular company, there is no message stronger for those that are employers in this province that continue to flaunt The Workplace Safety and Health Act or to take actions contrary to the safe workplaces than to send a message, a financial penalty message immediately, so that there are immediate consequences of failure to comply.

The government talks about immediate consequences through the Justice department. The former Minister of Justice talked about it, but you will not take similar actions through the Workplace Safety and Health Branch. That is one of the parts that is also disturbing. There are no immediate consequences, and the B.C. model would provide for that. The immediate consequences would provide for the field officers having power to correct unsafe workplaces in our province.

Madam Speaker, there are many examples that I could raise here today. I have raised some of them with respect to the families that have called me and the ones that I have talked to. The minister, through his act, can put in place legislation more than just the raising of the penalties to the \$150,000 first offence. He could include a monthly report issued to the public involving

the names of the companies that have been charged, those that have been prosecuted, the fines. They could name the owners of the company, the office location, the date of the infraction, the type of the infraction, the offence details and the disposition of the case in the end, so that the public can judge for themselves, much the same way that the B.C. occupational health and safety model allows for. I am not saying it is perfect, but what I am saying is it does go a long way toward addressing the imbalance that is now in the workplace by not allowing for immediate consequences for those who disregard The Workplace Safety and Health Act of this province.

So I ask both the Minister of Justice (Mr. Toews) and the Minister of Labour (Mr. Gilleshammer) to take actions in their own departments; the Minister of Justice with respect to prosecutions, where you have serious life threatening or deaths resulting as a result of workplace accidents, to ask for all of the parties including the owners and the company name to be named in your prosecutions, and where you have sufficient conditions to warrant in the interest of public safety, to ask for maximum penalties or sanctions to be applied because they have never been in my recollection asked for to this point in time.

I ask the Minister of Labour to consider at least the good points of the various pieces of occupational health and safety and workplace safety and health legislation in Canada and to amend Manitoba's legislation to incorporate those good points, because I think the B.C. model has a lot to offer.

I would like to see a blending, for example, of the B.C. and the Saskatchewan models to empower our field officers to take the appropriate steps, but I do not see, because this Minister of Labour has chosen only to deal with the penalty phase or the penalty portion of our Manitoba Workplace Safety and Health Act, I would have at this point little or no hope that there will be any corrective steps taken.

I can assure, Madam Speaker, that we will continue to take steps to point out the imbalance that is happening, the unsafe work conditions and the lack of prosecutions that are occurring in our province, and those who continue to evade the law and to escape without any responsibility for their actions. If there is

one thing that I am intent on doing in my time in this particular Chamber, it is to ensure that we have safe workplaces in the province of Manitoba. I dedicate myself to improving The Workplace Safety and Health Act to ensure that we have safe workplaces in this province. If this government will not take those steps, I plan to when we are in government.

Mr. Kevin Lamoureux (Inkster): Madam Speaker, I would like to say a few words on Bill 32. Bill 32 increases the fines under the act to a maximum of \$150,000 for the first offence to a maximum of \$300,000. The problem with this bill, however, is that Manitobans need more inspectors, not necessarily fines. If you lose a leg or an arm in an industrial accident, that penalty will do you no good. It might help the Workers Compensation Board, but it will not get your arm back; it will not lessen the need for many years of pain and suffering that you have to look forward to. I say that, of course, tongue in cheek.

Without a commitment to more and better inspections of labour sites, the imposition of fines is really just window-dressing. If we are really concerned with the workers' safety, we must work to prevent accidents. The fines will be a deterrent, no doubt about that, Madam Speaker, but we have to acknowledge and recognize that more important than the fines or the increase in the fines is to allow for resources that will allow for additional inspectors and ensuring that worksites are in fact going to be inspected on a more frequent basis, so that in fact what we are trying to do is to prevent some of these accidents from occurring.

Having said that, Madam Speaker, I listened very attentively to the member for Thompson's (Mr. Ashton) and the member for Transcona's (Mr. Reid) follow-up remarks or the beginning of Bill 32. I am very much aware in terms of what it is that the New Democrats could do in terms of the twisting of information, and I guess I would want to make it very clear, even in the speech that I gave previously, that the support for the workers and unions in general is very sincere and very solid. In fact, that is something which I would strongly advocate as being absolutely essential. I would also indicate that there is very little tolerance on my part for the manipulation of truth from the New Democrats in dealing with that.

Madam Speaker: Has the honourable member for Inkster finished his debate? Yes.

Is there leave not to see the clock for two minutes for me to call the question? [agreed]

Is the House ready for the question? The question before the House is second reading of Bill 32. Is it the will of the House to adopt the motion?

Some Honourable Members: Agreed.

Madam Speaker: Agreed and so ordered.

The hour being 12 noon, as previously agreed, I am leaving the Chair with the understanding that this House will resume at 1:30 p.m. this afternoon.

LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, June 19, 1997

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