



First Session - Thirty-Seventh Legislature

of the

Legislative Assembly of Manitoba

**DEBATES
and
PROCEEDINGS**

**Official Report
(Hansard)**

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



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Seventh Legislature

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TWEED, Mervin	Turtle Mountain	P.C.
WOWCHUK, Rosann, Hon.	Swan River	N.D.P.

LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, June 29, 2000

The House met at 10 a.m.

PRAYERS

ORDERS OF THE DAY

Hon. Gord Mackintosh (Government House Leader): Mr. Speaker, would you please call the second readings, followed by debate on second reading of Bill 15, The Water Rights Amendment Act, followed by report stage on Bill 20, The Farm Machinery and Equipment Amendment Act, to be followed by debate on second readings as they are listed on the Order Paper.

SECOND READINGS

**Bill 32—The Victims' Rights
Amendment Act**

Hon. Gord Mackintosh (Government House Leader): Mr. Speaker, I move, seconded by the Minister of Finance (Mr. Selinger), that Bill 32, The Victims' Rights Amendment Act; Loi modifiant la Loi sur les droits des victimes, be now read a second time and referred to a committee of this House.

Motion presented.

Mr. Mackintosh: Mr. Speaker, I am very pleased and honoured to introduce for second reading the victims' bill of rights. New Democrats have always sought to provide a voice for those without power. New Democrats have long sought a rightful role and healing for those harmed by serious wrongdoing.

NDP governments in this province have had an extensive record of action on behalf of crime victims. Some of the New Democrat milestones over the years include one of the first victim compensation schemes, one of Canada's first child abuse victim support programs, the first provincial protocol for zero tolerance of spousal violence, Canada's first surcharge on criminals to

fund victims' services, Canada's first legislated victims' assistance committee, Canada's first specialized victim assistance program—that is the Women's Advocacy Program—Canada's first enactment of victims' rights principles, and one of Canada's first pioneers of victim impact statements.

Over the last decade or so, Mr. Speaker, there have been some increases in funding for victim services, but I regret that the earlier momentum has slowed, if not witnessed a serious step backwards, particularly with reductions in victim compensation coverage in the last year or so.

A number of problems were identified under the former government in a December 1996 report prepared by Prairie Research Associates entitled *Operational Review of Victims Assistance in Manitoba*. Aside from the gaps in service and the shortcomings, the study also reported that in a survey of 800 Manitobans in September, 1996, 60 percent were not aware of any victims' services at all. Yet 80 percent of respondents stated that the right to submit a statement in court and to receive information on police and court procedures should be guaranteed to victims' family members.

The report urged that the provincial government issue a bill or charter of victims' rights which would include the right to participate in the prosecution of the case. Other complementary studies have shown that victim satisfaction with the justice system depends more on the victim's degree of control over the process than the severity of sentences for offenders.

Mr. Speaker, it was four years ago this month that Manitoba New Democrats, in convention, unanimously endorsed a resolution, which called for guaranteeing victims' rights in law. In response, we heard from the Government at that time, some lip-service and then the introduction of legislation, which really did no

more than again restate the principles of victims' rights without any comprehensive or enforceable scheme.

In September 1997, the now Premier announced that New Democrats would introduce a comprehensive and enforceable victims' bill of rights in the Manitoba Legislature. We consequently did that; we did not get the support of the Government at that time. So, Mr. Speaker, it is in that context that we move second reading of this bill, which is based on the rights that were enunciated in our opposition bill.

This bill before the House establishes a new standard for the treatment of crime victims in Canada; a standard which fundamentally alters the administration of justice by recognizing those who are most hurt by crime—the victims. It is unfortunate that the person most affected by the crime is the person most left out of the process. The traditional notion that the justice system is a contest only between the state on one hand and the accused on the other must be adjusted to recognize the role of victims. It is not just a matter of respecting rights of victims, but also a matter of making sure that the case is as strong as possible by ensuring that the voice of the victim is heard during proceedings, as well to ensure that offenders will come to a better understanding of the impact of their wrongdoing on society and the victim, in particular.

Manitoba's proposed victims' bill of rights gives new responsibilities to police, prosecutors, the courts and corrections officials in relation to victims of crime. The bill of rights will ensure that victims are consulted on key decisions, will be provided with an opportunity to participate in the criminal justice process and will be given access to relevant information about the investigation and prosecution of the case affecting them.

Aside from the report that I referred to earlier and our opposition bill, this bill of rights also reflects on the UN declaration of basic principles of justice for victims of crime and abuse of power that was agreed to by the General Assembly of United Nations in 1985. We believe that this bill will put into law the spirit of that UN declaration.

Since coming into office, our government has worked hard to follow up on our commitment that has been expressed over the last number of years to establish meaningful rights for victims of crime in Manitoba. Earlier, we introduced our child victim support initiative, which will ensure there is a more respectful and sensitized dealing with child victims. This bill now goes beyond that and deals with victims of crime in general. We have consulted with victim advocate groups, police, prosecutors, the provincial Ombudsman and a number of other agencies. We have sought their input, as we have developed clearly stated and enforceable rights for crime victims.

This bill will replace Part 1 of Manitoba's existing Victims' Rights Act and, in its place, establish the victims' bill of rights. It also contains amendment to Part 5 that introduces, for the first time in Manitoba, compensation for counselling for family survivors of homicide victims. The Bill has been designed to clearly identify the areas of the justice system responsible for responding to victims and outlines the services they are to provide. In all, there are eight major sections.

The first section highlights how victims can obtain information and services. The following five sections include provisions setting out the responsibilities of the police, the Crown, court services, corrections and the review board. The final two sections provide details about the responsibility of employers in granting appropriate time off to victims and how a victim might file a complaint about a contravention that is alleged of the Bill.

* (10:10)

The bill of rights will apply to offences in the Criminal Code and the Young Offenders Act. It permits the inclusion of victims of other offences under provincial laws. The objectives of the Bill are to ensure that victims are better informed about and able to participate in each stage of the criminal justice process; that they are consulted on decisions affecting the case, such as bail, plea negotiations, sentencing and release conditions; that they are informed by police, prosecutors and corrections staff of decisions affecting their safety and the safety of

family members, the outcome of the investigation and prosecution and any terms, conditions and dates related to supervision orders and the release of offenders.

Mr. Speaker, victims under this bill must be informed of their rights during the police investigation. Victims can then file a notice with Manitoba Justice of the rights they intend to exercise throughout each stage of the justice process. Victims can also choose to simply exercise selected rights without filing a notice arising at the time the case is processed by each branch of the justice system. Victims' rights are subject to the following conditions: that exercising rights will not unreasonably delay or prejudice an investigation or prosecution and, second, that the rights are not contrary to law or law enforcement. Indeed, we have made it clear that the right to consultation, for example, at the stage of plea negotiations or plea bargaining, represents a voice, although not a veto.

Victims are entitled to information on the programs or procedures they may encounter at each stage of the justice process or how they may access information about such rights. Examples of general victim rights include: an explanation of the legal process and the victim's role in it, information on how or when items seized as evidence can be returned, and how to prepare a victim impact statement and, very importantly, how to obtain restitution.

The Bill contains rights specific to the offence which must be met by police, prosecutors, court staff and corrections officials if requested by a victim. Victims will have the right to be consulted on decisions affecting the disposition of the case and the release of the offender. For example, if requested, victims must be informed of their rights under the Bill, the status of the investigation, the name of the person charged with the offence and whether the person charged with the offence has been released and, if so, any release conditions. If requested by the victim, police and prosecutors must consult with victims regarding any pre-trial release of the accused, use of alternative measures, plea negotiations, as I mentioned earlier, and the Crown position on sentencing if the accused is found guilty.

Victims are to be provided with a waiting area separate from the accused person and witnesses where it is reasonable and practicable to do so. Victims must also be informed if a person has escaped police custody or a correctional facility, if there are reasonable grounds to believe that the person poses a threat to the safety of the victim or the family.

The Bill applies to victims of persons found not guilty by reason of a mental disorder or unfit to stand trial, as well.

A 30-day time line has been established for the Department to respond to complaints by a victim whose rights under the Bill have been breached. Any extension must be approved by the Ombudsman. Further, the Ombudsman must now designate within his office a crime victims investigator to review any victim concerns about the investigation conducted by the Department or any alleged breach of rights in the Act. Of course, access to the courts for a remedy is available, although actions cannot be pursued where a justice official is acting in good faith.

The Bill must be evaluated, Mr. Speaker, within five years of proclamation. This is so we can identify how well the Bill has affected victims and changed the administration of justice in Manitoba.

Mr. Speaker, those are the essential elements of the Bill and some of the background. I look forward to debate on second reading and the matter going to committee. Thank you.

Mr. Jim Penner (Steinbach): I move, seconded by the Member from Fort Garry (Mrs. Smith), that we adjourn debate.

Motion agreed to.

Bill 35—The Planning Amendment Act

Hon. Jean Friesen (Minister of Intergovernmental Affairs): Mr. Speaker, I move, seconded by the Minister of Agriculture (Ms. Wowchuk), that Bill 35, The Planning Amendment Act; Loi modifiant la Loi sur l'aménagement du territoire, be now read a second time and referred to a committee of this House.

Motion presented.

Ms. Friesen: I am pleased to introduce for second reading, Bill 35, The Planning Amendment Act. The necessity for this bill has arisen out of the recent growth and expansion of the livestock industry in Manitoba. Manitoba's agricultural economy is changing rapidly, not necessarily the pace or the timing which we would have chosen, but the most dramatic changes have occurred in livestock production, which has offered producers new economic opportunities. There are many positive developments for our communities and the province's economy, but we do want to ensure that these changes occur in an atmosphere of sound public discussion and in an atmosphere of equality, and one where we can ensure that industry growth does not occur at the expense of the environment or jeopardizing the way of life of particular communities.

This bill offers a series of amendments to The Planning Act, which provides us with strategic measures to address expansion issues. Bill 35 is a proactive rather than a reactive approach to livestock expansion and is essentially an interim step while we proceed with public consultations under the Livestock Stewardship Initiative. Expansion in livestock production is of importance to everyone living throughout Manitoba. However, industry expansion is not a simple issue and the public needs to know that safeguards are in place to protect everyone's interests.

Until now, the conditional use process in The Planning Act guided the actions of municipal councils. The processes involved giving public notice and a local hearing before council. Council could then approve, approve with conditions, or refuse the application. Bill 35 contains a number of important amendments, which would take a broader view of livestock expansion. The most significant amendment would make technical reviews mandatory for conditional use applications for large operations and prohibit any development or construction before the required provincial approvals were in place. These amendments would only apply to proposed livestock operations of 400 animal units or more, so there is a parallel with the agricultural guidelines in this issue. The

definition is included in the livestock manure and mortalities regulation under The Environment Act and is a recognized standard in the industry.

Public concern frequently relates to the establishment of large hog operations. There is, in many cases, less concern over small- and medium-sized family farm livestock operations. Bill 35 specifically deals with these larger types of expansion. Municipal councils would be required to forward to our office, a copy of a new conditional use application for a large livestock operation. Once our office receives a conditional use application, the appointed technical review committee would begin to prepare a report and to make recommendations to the council.

Committees would be made up of a team of environmental scientists, agrologists and land use planners to ensure that proposals are looked at with care and attention is given to all aspects of the proposed development. The council would be required to await the findings of the Committee, after which it would set a public hearing date. In addition, councils would be required to make the public aware that the review committee's report and recommendations are available at the municipal office for inspection or copying. Broader public hearing notice would be given by publishing at least one notice in a local newspaper and by sending a copy to all property owners within two kilometres of the proposed development. No public hearing could take place sooner than 30 days after council receives the technical review committee's report and recommendations. This would allow the public ample time to review the technical review committee's findings and to prepare for the subsequent public hearing stage. Given the impact of large livestock operations on local residents, the public, Mr. Speaker, we believe, wants to be assured that these expansions have been evaluated from all perspectives, and they need to be aware of the availability of the reports.

Over the past number of years, the Government has offered to municipal councils the services of provincial technical review committees to examine conditional-use applications and to make recommendations. They were, in

the past, only conducted at the request of municipalities, but, increasingly, in the last number of years, more municipalities have taken advantage of this offer.

* (10:20)

With Bill 35, the involvement of the provincial technical review committee is no longer an option but will be required for all large livestock conditional-use applications. New public hearing notice provisions ensure that municipal councils and the public have an adequate opportunity to review the information they need to hold productive discussions and informed discussions and to make the responsible decisions that come from that.

I want to emphasize, Mr. Speaker, that we have a great deal of faith and we are placing a great deal of confidence in municipal government in Manitoba. Many councils are already meeting or surpassing the standards for technical review and for public input or discussion. However, the rapid increase and interest in livestock expansion has raised awareness and public interest in how decisions are made.

Point of Order

Hon. Tim Sale (Minister of Family Services and Housing): On a point of order, Mr. Speaker, I wonder if you could ask members to have their conversations either a lot quieter or in the loges. I am having a great deal of difficulty hearing the Honourable Minister.

Mr. Speaker: Order. On the point of order raised, I would ask the co-operation of all honourable members to keep their conversations down or to have their conversations in the loges.

* * *

Ms. Friesen: We want to ensure that the same standards are met and the same rules are applied province-wide when livestock operations are proposed. We see this Bill 35 as a significant step to address one of the gaps in the existing Planning Act legislation.

In the meantime, Mr. Speaker, we are asking Manitobans to share their views on the future of

the livestock industry expansion. Beginning on June 29 and continuing through July, a total of six public hearings will be held throughout Manitoba to give citizens an opportunity to share their views on this very important issue. We anticipate that many of them will. We anticipate that there will be discussions with municipal councils and that they will also be expressing their views on this issue, as will people involved in the industry and people who are concerned about the future of agriculture in Manitoba.

A public discussion paper entitled *Livestock Stewardship 2000* has been prepared and is being made available to everyone who is interested. The document, Mr. Speaker, is available on the Manitoba Government Web site or by contacting the Livestock Stewardship Initiative office. We are pleased with the tremendous support and co-operation that we have received to date from the Association of Manitoba Municipalities, from producers and from the industry for Bill 35 and for other initiatives of our government to address livestock expansion in our province.

Mr. Speaker, in conclusion, I recommend Bill 35 to the members of the Legislature for their consideration and adoption. Thank you.

Mr. John Loewen (Fort Whyte): Mr. Speaker, I move, seconded by the Member for Arthur-Virden (Mr. Maguire), that debate be adjourned.

Motion agreed to.

Bill 39—The Insurance Amendment Act

Hon. Ron Lemieux (Minister of Consumer and Corporate Affairs): Mr. Speaker, I move, seconded by the Minister of Agriculture and Food (Ms. Wowchuk), that Bill 39, The Insurance Amendment Act; Loi modifiant la Loi sur les assurances, be now read a second time and referred to a committee of this House.

Motion presented.

Mr. Lemieux: Mr. Speaker, I am very pleased to make some comments about Bill 39, The Insurance Amendment Act. This bill enhances protection for purchasers of insurance products. It will make it easier for insurance companies to

do business in Manitoba and generally make changes which reflect the realities in today's marketplace.

This bill has three main purposes. First, it is to enhance consumer protection for the purchasers of insurance. Second, it is to make it easier for insurance companies to do business in Manitoba by repealing legislation which has become outdated in today's marketplace realities. Third, it is to provide for a more effective licence appeal process.

The Bill enhances consumer protection by making it mandatory for all insurance agents doing business in Manitoba to carry professional liability insurance. The professional liability insurance will include errors and omissions insurance and will also cover fraudulent acts.

Mr. Speaker, the Bill amends the process by which an application for an insurance agent's licence is sponsored. Currently, the Act requires all agents to be sponsored by an insurance company. The insurance company attests to the applicant's competence, trustworthiness and knowledge of the insurance business. The Bill requires only the designated representative agent in charge of the general insurance agency to be sponsored by the insurance company, and the designated representative is required to sponsor all the agents working for the agency.

The Bill also imposes a duty on a person or insurer sponsoring an application for an insurance agent's licence to implement reasonable screening procedures to determine whether the applicant is a suitable person to receive the licence.

The Bill broadens the range of disciplinary actions that may be taken against insurance agents and adjusters to include fines and the payment of costs of an investigation and hearing. Currently, the only disciplinary action available is suspension or revocation of a licence.

The proposed bill repeals the sole occupation requirement for agents and brokers that will allow them to engage in insurance combined with other occupation.

The Bill will provide immunity from civil liability for the Insurance Council and persons engaged by the superintendent and the Insurance Council for actions taken in good faith. The superintendent is currently immune, and it is reasonable to extend the immunity to those acting on behalf of the superintendent of insurance through delegation.

The existing requirement that companies licensed to do business in Manitoba deposit securities prior to licensing will be eliminated. Given the existence of national compensation plans, the Property and Casualty Insurance Compensation Corporation and Canadian Life and Health Insurance Compensation Corporation that provide protection to insured persons in the event of an insurance company insolvency, these deposits are now redundant.

Mr. Speaker, to facilitate faster coordination of appeals, the Bill also makes some changes to the structure and process for establishing hearing panels of the Insurance Agents and Adjusters Licensing Appeal Board. A process is also added to allow an application to be made to lift the licence suspension until an appeal of the suspension has been heard.

Mr. Speaker, I look forward to discussing these important amendments further as this bill is considered. Thank you.

Mr. Peter Dyck (Pembina): Mr. Speaker, I move, seconded by the Honourable Member for Russell (Mr. Derkach), that we adjourn debate.

Motion agreed to.

**Bill 40—The Business Names Registration
Amendment, Corporations Amendment
and Partnership Amendment Act**

Hon. Ron Lemieux (Minister of Consumer and Corporate Affairs): I move, seconded by the Minister of Education and Training (Mr. Caldwell), that Bill 40, The Business Names Registration Amendment, Corporations Amendment and Partnership Amendment Act (Loi modifiant la Loi sur l'enregistrement des noms commerciaux, la Loi sur les corporations et la Loi sur les sociétés en nom collectif), be now

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

Motion presented.

Mr. Lemieux: The Business Names Registration Act, The Corporations Act, and The Partnership Act provide the legislative framework for the registration of business and corporations in Manitoba. Currently these statutes require the Director of the Companies Office to publish a notice in the *Manitoba Gazette* each time that one of these businesses or corporations enters into a fundamental transaction such as an initial registration, amalgamation, change of name, or dissolution.

* (10:30)

This bill removes reference to publication in the *Manitoba Gazette* from these statutes and adds provisions providing that publication will be made as set out in the regulations to those acts. We intend the regulation to provide for publication of these notices over the Internet. Paper copies will also be made available free of charge to any members of the public, including libraries, who prefer not to access this information via the Internet.

This bill follows in the spirit of The Electronic Commerce and Information Act introduced on June 5, 2000. As was stated in the introduction of that bill, Manitoba has to be proactive and innovative in its legislation governing electronic commerce. I believe that this bill continues those objectives. Moreover, I believe that the amendments will make information more readily available to a wider cross section of Manitobans who do not today subscribe to the *Manitoba Gazette*. Once passed by the House, the Bill will be proclaimed once the new Companies Office computer system is implemented. This is expected in February or March of 2001.

I therefore recommend this bill for consideration, Mr. Speaker. Thank you very much.

Mr. Peter Dyck (Pembina): I move, seconded by the Honourable Member for Southdale (Mr. Reimer), that we adjourn debate.

Motion agreed to.

Bill 41—The Balanced Budget, Debt Repayment and Taxpayer Protection Amendment and Consequential Amendments Act

Hon. Greg Selinger (Minister of Finance): I move, seconded by the Minister of Justice (Mr. Mackintosh), that Bill 41, The Balanced Budget, Debt Repayment and Taxpayer Protection Amendment and Consequential Amendments Act (Loi Modifiant la Loi sur l'équilibre budgétaire, le remboursement de la dette et la protection des contribuables et modifications corrélatives), be now read a second time and be referred to a committee of this House.

Motion presented.

Mr. Selinger: The Balanced Budget, Debt Repayment and Taxpayer Protection Amendment and Consequential Amendments Act is required to address several problems that are inherent in the current legislation. We presently have two pieces of legislation, The Balanced Budget, Debt Repayment and Taxpayer Protection Act and The Fiscal Stabilization Fund Act, which operate together to create a basic fiscal management structure for Manitoba.

Under this structure, the Government cannot incur a deficit in the operating fund unless there are specific urgent circumstances that cause a negative result. There are mandatory provisions for retirement of the Government's tax supported debt. The taxpayers must approve by referendum any increase in the rates of the major taxes collected by the Government.

The Fiscal Stabilization Fund, often known as the rainy day fund, is used as a repository of surpluses and net proceeds from the sale of government corporations. The purpose of the fund is to assist in stabilizing the fiscal position of the Government from year to year and to facilitate the Government's long-term fiscal planning. Several issues of accountability and transparency have been identified in this legislation that now require changes to these two acts. The legislation has no provision for the dealing with the Province's unfunded pension liability. Although the legislation does provide a plan for repayment of the Province's general purpose debt, it does not address the significant

pension liability for our employees and teachers. If left unattended, this liability will grow far beyond the general purpose debt that the Government set out to retire in 1996.

For some time now, the Provincial Auditor has reported to the Legislature that certain of the accounting policies followed in the Operating Fund are not in accordance with generally accepted accounting principles for public sector bodies. He has been especially concerned with the presentation of Fiscal Stabilization Fund transfers and Debt Retirement Fund transfers as revenue and expenditure items. As a result, the Provincial Auditor has been concerned about the description of the final balance for the year and the Operating Fund as a surplus when it includes such transfers. He has been further concerned that the use of the word "surplus" in the Operating Fund causes confusion with the results for the Government as a whole as reported in the Summary Financial Statements. As well, we often voice, in Opposition, our dismay that an asset such as the Manitoba Telephone System could be sold to balance the books and build up the Fiscal Stabilization Fund.

The changes presented in this bill are intended to address these significant issues. These changes are supported by the recent financial review performed at the Government's request by Deloitte Touche. They also serve to reinforce the Government's stated commitment to the maintaining of a balanced budget and to placing Manitoba's finances on a sustainable level. Under this amending legislation, budgets must continue to be balanced and the penalty provisions of the Act remain unchanged. This Bill does not change these sections of the Act requiring a referendum for tax increases, nor have we touched those sections of the Bill that provide an opportunity for representations by members of the public before this act can be amended or repealed.

The changes presented in this bill will do a great deal to strengthen the balanced budget legislation. Debt repayment provisions will include a method for dealing with the Province's ever-increasing pension liability. If this liability is not addressed quickly, it will overwhelm the general purpose debt the legislation now deals with. By the year 2028, actuarial projections

indicate that this liability could grow to 8.4 billion. Under the plan introduced in this bill, the pension liability will be fully funded in the year 2035, and the general purpose debt will be eliminated by the year 2040.

It addresses those issues reported to the Legislature by the Provincial Auditor which, in effect, reduced the Government's accountability for the annual result of the Operating Fund reported in the Public Accounts. Issues such as the reuse of revenues to the Fiscal Stabilization Fund to create a surplus in more than one fiscal year will be addressed. In the new act, these transfers are no longer called revenue, and any annual result using these transfers is no longer called a surplus. The Financial Administration Act is changed to impose a September 30 deadline on both the Summary Financial Statements and the Consolidated Fund Financial Statements so that these statements could be used together. The Consolidated Fund Statements will be labelled as special purpose statements to avoid any confusion with the overall results recorded in the Summary Financial Statements. These are further steps toward more openness and transparency in the Government's financial recording.

The amendments will also preclude the use of proceeds from the sale of Crown corporations, like the Manitoba Telephone System, from being used to balance the budget and bolster the rainy day fund. These changes now proposed will strengthen the Act and the Government's ability to citizens under the Act and will make better use of public resources to address the total unaddressed debt of the Government of Manitoba. This will achieve an overall better result for the citizens of Manitoba. Thank you.

Mr. John Loewen (Fort Whyte): I move, seconded by the Member for Minnedosa (Mr. Gilleshammer), that debate be adjourned.

Motion agreed to.

Bill 42—The Public Schools Amendment and Consequential Amendments Act

Hon. Drew Caldwell (Minister of Education and Training): It gives me great pleasure to move, seconded by the Honourable Minister of

Agriculture (Ms. Wowchuk), that Bill 42, The Public Schools Amendment and Consequential Amendments Act; Loi modifiant la Loi sur les écoles publiques et modifications corrélatives, now be read a second time and be referred to the Committee of the Whole.

Motion presented.

Mr. Caldwell: I am very proud to rise in the House today to explain the purpose and discuss the most important features of Bill 42, The Public Schools Amendment and Consequential Amendments Act. The purpose of this legislation is to put into place a framework for collective bargaining which will stand the test of time and allow our schools to function in an atmosphere of mutual respect and benefit. This bill is about fairness. It is about stability in our schools. It is about creating an environment that allows all of us to work towards achieving the main priority of our public school system, ensuring that our children receive the highest quality of education possible.

I believe that all of us in the House want a balanced approach to teachers' collective bargaining, an approach that puts the interests of children first. Over the past few months, the Premier (Mr. Doer) and I, as well as provincial government officials, have had extensive consultations with representatives of the Manitoba Association of School Trustees, with individual school boards, and with the Manitoba Teachers' Society on the issue of collective bargaining arrangements for teachers and school divisions. Both MAST and MTS, as well as some school divisions, have provided written submissions to government. There was a full and frank discussion of the issues.

* (10:40)

I have been urged by all parties to ensure that any collective bargaining process is fair and sustainable. I believe the proposed legislation does just that. It is clear that the previous arrangements for collective bargaining between teachers and school boards under the former Bill 72 were designed to disadvantage teachers. This new legislation corrects this imbalance. But I believe that the former Bill 72, passed in 1996, did more than attempt to limit teachers' salaries

and the scope of bargaining. The former Bill 72 attempted to single out teachers' salaries as a cause of local property tax increases. It introduced acrimony into teachers' collective bargaining and interrelations between teachers and local school divisions to the extent that there are still divisions without collective agreements settled under the Bill. This sort of approach is not helpful, nor is it productive.

The Government of Manitoba will not achieve our goals in education by attacking teachers. We have to recognize that the workplace for the teacher is the classroom, and it is not in the best interests of students and parents to ask teachers to work in an environment where their role is not respected. I believe that this legislation will help us to take a new approach in Manitoba. It will allow us to build partnerships with parents, with school trustees, and with teachers, with all citizens, to achieve the kind of atmosphere we need to create good schools and a reliable public education system for our children.

Many people, of course, are concerned about property taxes and the possible impact that new collective bargaining arrangements for teachers might have on local taxation. As a responsible public official, I certainly share this concern about taxes. For this I can only draw upon my experience both as a member of this Cabinet, but, more significantly, over the better part of the past decade as a former municipal councillor. We are, all of us, concerned about property taxes. That is why this government increased funding to the public school system by \$30 million this year alone, the largest increase in over a decade. That is why the Government of Manitoba this year increased the property tax credit by an additional \$75 per homeowner and tenant. That is why we made a long-term commitment to increasing funding to the public school system at the rate of growth in the economy.

Mr. Speaker, the Government of Manitoba is supportive of excellence in the public school system of this province. The Government knows that local school taxes did increase substantially during the 1990s. But, if we look at the record, we can clearly see that school taxes went up because the previous government reduced or

froze public school funding in most years over the past decade. Indeed, the explosion in local property taxes which occurred under the Tory watch is directly linked to the dramatic cuts in funding to the public education system which was central to the policy of the previous administration. I know that school trustees in Manitoba understand this fact. I know that Manitobans understand this fact.

I wish to underscore that I certainly appreciate the very real difficulties of being a school trustee in Manitoba during the 1990s. They had an extraordinarily tough job to do, balancing provincial funding cuts with the need to take a responsible approach to maintaining a sound education for the children in their communities. So, before I outline the provisions of Bill 42, I would like to review a little history.

First, let us briefly review collective bargaining before 1996. The bargaining regime that existed prior to 1996 was a system that worked well for over 40 years. It stood the test of time. In Manitoba, we had 40 years of experience with binding arbitration. We had no disruptions in this province due to strikes or lockouts. Teachers' salaries during this time were generally in line with other jurisdictions across Canada. Settlements, whether bargained or arbitrated, were generally manageable. Indeed, settlements reflected the realities which Bill 72 purported to address.

I quote from an arbitrated settlement concluded by Mr. Paul Teskey in 1994, years before Bill 72. Mr. Speaker, my quote begins with Mr. Teskey's comments: Issues such as comparability in terms of other settlements, ability to pay, general economic conditions, demonstrated new need due to existing problems and/or the inherent logic of fairness of a particular request are always to be considered and have been in this instance.

Mr. Speaker, arguments that this bill will somehow preclude arbitrators from considering fiscal issues are, bluntly put, specious. In Manitoba, we had a system of bargaining that allowed local issues to be dealt with, and we recognized and respected the diversity of Manitobans, and very few changes in working conditions came as a result of bargaining or

arbitration, certainly in Manitoba, far fewer than in other provinces. In fact, by 1997, teachers in Manitoba did not have some important bargaining elements that teachers elsewhere did, such as the benefits of long-term disability, of certain leave provisions, of working condition clauses of various kinds, including class size. In short, in Manitoba we had a system that worked.

So what happened in the 1990s? In the 1990s, Mr. Speaker, Manitobans had Filmon Fridays, days without pay. In the 1990s, we had gross political interference with collective bargaining. Most importantly for local communities, we had years of Tory cuts to public school funding, funding cuts that put enormous financial pressure on school boards and on local property taxpayers. Teachers' salaries are the single highest cost, accounting for about 60 percent of all spending for school divisions, and boards are faced with finding ways of controlling these costs, and the previous administration was only too willing to bash teachers over and over and over again. Indeed, teachers were bashed, ridiculed, scorned throughout the Tory years. Sadly, in opposition, the members opposite continue to bash educators.

Even school trustees, Mr. Speaker, expressed concerns about the impact of Bill 72 when it was introduced. In 1996, the members on this side of the House expressed that concern and made a commitment to repeal it upon being elected, and that is what we are doing here today.

So, Mr. Speaker, what has been the legacy of Bill 72? Bill 72 upset a system of collective bargaining that worked well for over 40 years. Bargaining became much more difficult because teachers felt singled out for negative treatment, and, indeed, they were. Teachers became demoralized. Teachers felt they did not have the same access to collective bargaining as other workers. So we can see where all this has led. We just have to look at Nova Scotia or Ontario where governments are attacking teachers so much that talented young people no longer wish to enter the profession.

This brings us to an important issue for Manitoba, Mr. Speaker. Many of our current

teachers entered the profession 20 or 30 years ago. They are dedicated people, but they are retiring. In Canada, we have already begun to see the first signs of an emerging teacher shortage, especially amongst math and science teachers. We must remember that we will be hiring many new teachers in Manitoba over the next few years. We need good people, we need dedicated people, and we need people who are valued and respected in this province. We have to offer teachers a climate that provides educational challenges but also provides respect and support for their work as well as fair wages and working conditions. We, on this side of the House, the Government of Manitoba, see teachers as vital partners in building quality education, not as the enemy.

What goals should we be seeking to achieve in collective bargaining for teachers? First and foremost, the protection of students. We want to make sure that the education of young Manitobans is not disrupted. Second, we wish to ensure educational excellence in the province, quality of education which reflects and requires effective committed teachers but also requires that school boards have reasonable ability to manage their resources, including staff.

Third, Mr. Speaker, we desire fair bargaining arrangements which do not single out teachers for differential treatment from other employee groups, unless there is very good reason to do so as is the case in prohibiting strikes and lockouts.

Fourth, Mr. Speaker, we desire strong local input into the nature of teacher-employer relationships with school boards. The Government of Manitoba believes that this bill succeeds in providing a framework for achieving these goals.

* (10:50)

What are the main provisions of this bill? For the first time, The Public Schools Act will contain a statement of principles about the purposes of our school system. In the new preamble, Mr. Speaker, we are making a clear statement that the purpose of the entire public school system is to serve the best educational interests of students.

I thank you and note, Mr. Speaker, that members on this side applauded that statement, and I appreciate that support.

These principles emphasize the importance of education for both individual students and society as a whole, and emphasize the shared responsibility of parents, trustees and teachers for the whole of our public school system.

Strikes and lockouts will continue to be prohibited. This has been the traditional approach in Manitoba, and we have seen the disruptive effects of strikes and lockouts on students in other provinces. With this legislation, Mr. Speaker, we begin to treat teachers like other workers with a few justified exceptions, and we make most aspects of teacher collective bargaining consistent with The Labour Relations Act.

The new legislation entrusts school trustees and teachers with the responsibility to bargain on virtually all matters relating to working conditions, and allows through arbitration on all matters, with the exception of class size and composition. In this manner, we will shortly establish a commission for a public debate on setting provincial policy.

The history of labour relations in Manitoba shows that open bargaining and arbitration for school divisions and teachers has not led to major changes in the ability of boards to manage public resources. Some members opposite have remarked that this legislation gets rid of the "ability to pay" factor in arbitration procedures. It does no such thing.

Arbitrators will recognize that boards have a continuing responsibility to manage their resources effectively. Those precedents will not be altered by this legislation. I earlier referred to this fact, and I will again quote Mr. Teskey from his 1994 remarks, including an arbitration in the Lord Selkirk School Division. Mr. Speaker, I quote: Issues such as comparability in terms of other settlements, ability to pay, general economic conditions, demonstrated need due to existing problems and/or the inherent logic of fairness of a particular request are always to be considered and have been in this instance.

Mr. Speaker, these considerations existed previous to 1996 and will continue to exist after this legislation. Collective bargaining between school divisions and teachers will now primarily be governed by the provisions of The Labour Relations Act with the notable exception of strike and lockout but also will continue to be included under the overall umbrella of The Public Schools Act. This is an approach that has worked well for Manitoba in the past. It is fair to teachers by providing them with access to the same bargaining arrangements as other workers, but it also recognizes that in some important instances teachers are not like other workers.

The Labour Relations Act works for other essential workers such as nurses and police. There is no reason to think it cannot work well for teachers. Therefore, Mr. Speaker, this legislation provides a balanced bargaining approach and a balanced arbitration process. Bill 72 was clearly designed to disadvantage teachers, to single out and bash teaching as a profession.

The purpose of this bill is to restore balance, to recognize teachers as well as trustees as the respected and dedicated educators they are. We know that arbitrators have generally taken into account ability to pay, cost of settlement, impacts on management rights, all the factors that employers are concerned within arbitration. Arbitrators will continue to take these factors into account.

Finally, in the legislation, government has identified class size and composition as an area of overriding public interest and a vital matter in education policy. Both the Manitoba Association of School Trustees and the Manitoba Teachers' Society have singled out class size and related matters as key issues in schools and in bargaining between teachers and boards. We have chosen to exclude class size and composition from arbitration, at least until we have worked with Manitobans to examine the whole issue carefully.

This legislation provides for the establishment of a provincial commission on class size and composition with a mandate for broad public consultation. The commission will consult with parents, teachers, trustees, pupils and the citizens

of Manitoba, generally. The role of the commission will be to consider whether class size should be a matter of provincial policy and, if so, to suggest what kind of policy, whether or not it should be a matter for local bargaining or whether some such other approach should be used.

This is a very complex issue, Mr. Speaker, involving the number of children in a class, the grade levels, the subjects being taught, special needs of children and many other such matters. I will soon be consulting with the parties on the make-up of this commission and will be announcing more on the consultation process by the end of the summer. I anticipate that the commission will begin its work in the fall.

In closing, Mr. Speaker, I would like to emphasize that in drafting this bill, the Government of Manitoba has been guided by considerations of balance, by considerations of fairness, and by considerations of the need for stability in the public school system and, above all, the need to maintain and enhance the quality of education for our children. All of us, parents, educators and elected officials, must forge partnerships to ensure that we achieve the many common goals we all share. Parents and students in Manitoba expect us to create and maintain a positive atmosphere in the classroom.

Finally, I would like to underscore our dedication to a vigorous and healthy educational system by noting our continuing commitment to provide annual funding increases at a level at least equal to the rate of economic growth. The Government of Manitoba increased public school funding by \$29.7 million in the current year and increased the property tax credit. These represent an injection of resources into the public school system which attain historic levels. This increased funding support is also in stark contrast to the dramatic funding cuts presided over by the previous Tory government. These measures should mitigate the need for local school divisions to resort to large property tax increases. The stability and predictability of funding that comes with this commitment, Mr. Speaker, coupled with the fair, balanced and sustainable bargaining process we have outlined will serve the young people of Manitoba well into the future.

The Government of Manitoba is proud to be supporting educational excellence through words and deeds, Mr. Speaker. We will continue to do so. Thank you.

Mr. Speaker: Prior to recognizing the Honourable Member for Fort Garry, I would just like to confirm something with the Minister of Education and Training (Mr. Caldwell). I would just like to confirm that when moving the motion, the Honourable Minister of Education and Training said: "be now read a second time and be referred to a committee of this House."

Mr. Caldwell: It was.

Mr. Speaker: It was. Okay, that is confirmed.

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

Motion agreed to.

DEBATE ON SECOND READINGS

Bill 15—The Water Rights Amendment Act

Mr. Speaker: To resume debate on second readings, on the proposed motion of the Honourable Minister of Conservation (Mr. Lathlin), Bill 15, The Water Rights Amendment Act (Loi modifiant la Loi sur les droits d'utilisation de l'eau), standing in the name of the Honourable Member for Arthur-Virden (Mr. Maguire).

Mr. Larry Maguire (Arthur-Virden): It is my pleasure today to stand to put on the record some of the issues around Bill 15, The Water Rights Amendment Act.

Mr. Speaker, this whole bill has come forward as a reaction by the Government to an action that was taken in regard to a local farmer's drainage issue, and it will have an impact on the whole province of Manitoba. It has already.

The March 16 Court of Appeal ruling set aside an earlier Court of Queen's Bench decision that a Manitoba property owner was guilty of diverting water without holding a valid and subsisting licence under The Water Rights Act. In rendering its decision, the Court of Appeal

concluded that the province of Manitoba has been declared a provincial waterway.

Mr. Speaker, this kind of a reactionary bill may be felt by the Government to clarify a situation that they feel they may have lost some power over, but today I want to put on the record some concerns about the bringing forward of this bill. I also want to make it very clear that we, as a province of Manitoba, for not only the farming community but other jurisdictions of water management in this province need to have some long-term planning in regard to the rights of individuals for drainage, in regard to an overall plan for water management in the province of Manitoba.

* (11:00)

That is so clearly why I was very proud to be a part of the Conservative Party in the election last fall because part of that mandate, part of the promise that we had made last fall, was to look at reviewing The Water Rights Act in the Province of Manitoba. And a view to that, Mr. Speaker, with the opportunity to put a management scheme in place, a management profile in place, that would allow proper management of water and not just the quick drainage of it, if you will, out of the province to get it into our rivers and streams and streams and rivers and eventually into Lake Winnipeg and on to Hudson's Bay. We must look further in this province as water as a natural resource and make sure that it can be used in the future to maximize the economic impact and the economic opportunities that are arising in some of the areas of the province that do not have that opportunity today.

In so doing, Mr. Speaker, we must very carefully look at the need in every corner of the province of Manitoba on how this water is handled. That requires a long-term plan under the leadership of the Government of the day, and it involves many ministerial jurisdictions, not just that of Conservation, in this case, a combination of Natural Resources and environmental ministries. This certainly involves Inter-governmental Affairs under the present portfolio, it involves the Minister of Agriculture, it involves Corporate and Consumer development, it involves Finance jurisdiction that we

have in this province as well. It affects basically all of the jurisdictions that we have in our province here in Manitoba because they have to work co-operatively.

That is why it has to be a Government decision, as was made by the previous government, to look at the whole package of water management in the province of Manitoba, which would be a novel idea in regard to the conservation process that we are under at the present. We keep hearing about the series of meetings that the Government wants to hold in many jurisdictions in Manitoba, but under the same Minister of Conservation that is in charge of this one, they have cancelled the meetings in regard to Bill 5 around the province of Manitoba. So it is with great deal of difficulty that some members particularly in the rural areas dealing with these issues on a regular basis query or have concerns as to the integrity of this government in regard to whether or not they will actually come forward with a long-term plan as many have talked about in this province.

Mr. Speaker, on April 12 this year, the provincial government announced it was proposing amendments to the provincial water rights act that would reinstate a provincial authority over land drainage activities in this province. The amendments are being sought, they said, in response to a decision by the Manitoba Court of Appeal, as I have outlined, to set aside that earlier Court of Queen's Bench decision. This whole process began because an individual farmer took a shovel and drained a slough into a neighbouring ditch. I have spoken with that individual and I have spoken with his legal counsel. I have spoken with municipal officials. I have spoken with the Association of Manitoba Municipalities. We have had representations from the farm organizations in Manitoba and discussions with many of my colleagues, in regard to their efforts in this area, in the previous government.

Mr. Speaker, as I said earlier, we do need a long-term plan. I will get into some of the areas that we think would be very beneficial additions to these amendments if in fact the Government actually carries out the continuation of these amendments in this House and also making them

additions then to The Water Rights Amendment Act in the Province of Manitoba.

Clearly I want to put on the record the main reason why we are here today. That is the addition to The Water Rights Amendment Act of a section that in the definitions of this act that they have added whereby it was believed by the Government, in fact it was a Court of Appeal decision, that the feeling that this amendment came forward because of the court decision that utilized the word "divert" under the present act. The judge, in his wisdom, with that act determined that the word "divert" is associated only with the use of water and does not include drainage under The Water Rights Act, and that is a fact. So this government has come forward with some amendments.

There are primarily only two issues in this bill. One is the addition of the term, the definition "water control works." I will read into Hansard, into the Legislature here today that this "means any dyke, dam, surface or subsurface drain, drainage, improved natural waterway, canal, tunnel, bridge, culvert, borehole or contrivance for carrying or conducting water, that (a) temporarily or permanently alters or may alter the flow or level of water, including, but not unlimited to water in a water body, by any means, including drainage; or (b) changes or may change the location or direction of flow of water, including but not limited to water in a water body, by any means, including drainage."

Really what has been done here, Mr. Speaker, is the term "drainage" has been added to these processes in this process from the previous act. The Government has felt that this was the direction they needed to go to clarify the issue in the province of Manitoba. It will require every person taking a shovel perhaps to the extreme in the future who wants to do drainage in their own particular operation, whereby they paid for the land themselves, are having to pay taxes on that land in every municipality in this province and yet do not have the ability, in co-operation with their neighbours, where it can be gained and other jurisdictions in the waterway in process, to go ahead and do what they would normally do to improve their own structure on an individual basis. We believe that those individuals should continue to have the

opportunity to manage their own affairs in co-operation with their neighbours, as has been done historically throughout the province of Manitoba.

I will refer to this later, Mr. Speaker, as well, but these individuals for the most part work co-operatively with their neighbours because they live in these communities, they live in these municipal jurisdictions, and they must clearly continue to operate in those areas. There are disagreements. I will not be naive enough to say that there certainly have been concerns in these areas. I think that that is part and parcel of why we do need some long-term planning in regard to jurisdictions over rules and regulations in regard to water management, including the drainage of water in the province of Manitoba.

Of course, the second issue in this bill is the last amendment, the priority over The Municipal Act. It states clearly that where there is a conflict between this act and The Municipal Act that this act prevails.

Mr. Speaker, we have just heard in regard to Bill 35 some of the implications that would lead the rural population in some of the farm communities to be concerned about giving jurisdictions from one area to another. Now we have the situation where the Minister of Conservation (Mr. Lathlin) is continuing to overrule the Minister of Intergovernmental Affairs (Ms. Friesen) on this particular issue, where municipal acts are responsible to. So it is very clear that just like Bill 5, where the Minister of Conservation can take over the rights of the Minister of Agriculture (Ms. Wowchuk) in regard to that bill, it seems like there is an empire being built here in regard to Conservation that would be a bit dictatorial in regard to how these kinds of events were managed in this province in the future.

That certainly leads many of the farm community to be very concerned. I will say that there are jurisdictions in this province in the agricultural community that differ one from another, even though the same crops are being produced all the way across the agricultural zone of this province. That will relate to the topography differences in this province that having come through representing—*[interjection]*

* (11:10)

The Member says it might have something to do with how we vote. I guess perhaps it might have something to do with the kinds of misunderstanding that we see and the jurisdiction of everything coming under the Minister of Conservation here that seems to be the dictatorship that I was talking about earlier and reducing that responsibility from traditional areas of rural development and agriculture that have been there under our previous government's concern and showed a great deal of concern for the continued use of those departments as key issues in the development of Manitoba, not only economical but socially, in our rural and urban divisions within the province of Manitoba.

I said that this changing of amendments in Bill 15 was the way that this government has decided to deal with the jurisdictional responsibilities of drainage of water in the province of Manitoba. But I want to be put on record here today. Before I get into some of the other areas of jurisdiction that have spoken to me in regard to this bill, I want to very clearly put on record today that I think that there is another way that this government could have dealt with this issue. In fact that might be to not to have brought this Bill 15 forward at all because these amendments are clearly not needed by the Province of Manitoba to carry out the responsibilities that are trying to be defined in these amendments in this act.

Mr. Speaker, if one clearly looks at The Water Resources Administration Act in Manitoba, and I will refer to it, it already has a definition of "water control works" in it. It "means works (a) for the conservation, control, disposal, protection, distribution, drainage, storage, or use, of water; or (b) for the protection of land or other property from damage by water." It goes on—that is under the definition section—to define clearly that drainage is part of water control works under The Water Resources Administration Act already established in the Province of Manitoba.

It goes on to say that, in defining its "Scope of administration" under section 2(3), "the minister, through the branch and subject as hereinafter provided, shall manage and

administer all those matters that are subject to the administration and control of the executive government of the province and that relate to the construction or operation of water control works and, in particular, those matters dealt with under the following Acts, or regulations made thereunder." I will list them in an order that they are listed: (a) The Dyking Authority Act; (b) The Ground Water and Water Well Act; (c) The Rivers and Streams Act; (d) The Water Power Act; (e) The Water Rights Act; (f) The Water Supply Commissions Act.

Mr. Speaker, clearly the responsibility that the Minister is seeking under these amendments clearly lies within his jurisdiction as water resources is a part of the Government of Manitoba and is designated by the Lieutenant-Governor-in-Council as part of the Department already in the Water Resources branch. It goes on to say that the Minister does have the responsibility over his definition of "water control works" in this act, which, clearly, as I have stated, outlines that drainage is part of that responsibility.

It behooves me, Mr. Speaker, to bring this to the attention of this House, because, very simply, bringing in Bill 15 is a reactionary move by this government, not a planned move for long-term planning in the province of Manitoba but a reactionary, spur-of-the-moment decision to counteract a decision made on an individual by the Court of Appeal in Manitoba that provided him with the opportunity to take care of his own property in conjunction with municipal officials. Now, clearly, this situation of drainage was done without a permit, as has been indicated, and that the case, perhaps, was won on the fact that there was not clarity on the word "divert" by some in this province under The Water Rights Act, and very clearly the Court of Appeal decision using the word "divert" is associated only with the use of water and does not include drainage.

So, therefore, Mr. Speaker, it behooves me to bring to this House's attention one last time that it is my feeling from clearly reading the two acts that The Water Rights Amendment Act that has been brought forward, The Water Rights Act, falls under the jurisdiction of the Minister's responsibilities as carrying out his respon-

sibilities under The Water Resources Administration Act. It goes on in that act to define the rights of the Minister with respect to water control works and very clearly gives him the jurisdiction and that responsibility.

Mr. Speaker, however, having said that and having put it on the record, I am very well aware that this government plans to continue to propose Bill 15 as a solution to The Water Rights Act as it presently exists to try to clarify the issues of drainage in this province.

Mr. Conrad Santos, Deputy Speaker, in the Chair

So I do want to put on the record today that I believe there is a better plan, that there are amendments I wish would be brought forward by this government to deal with the long-term plan that is required under this particular act in helping us to utilize the water that we have in Manitoba in a management-style process, as opposed to helter-skelter, if you will, reactions, as have been put forward in these amendments.

Very clearly, we need to have a process of discussion with municipal officials, with farm organizations and with individuals in regard to the present process, and the Bill that is being proposed to be brought forward would provide for permits to be required by every individual in regard to drainage of water in this province and the fact that those would continue to be by the Province taking back the authority for drainage, would continue to be utilized in every jurisdiction, as has been the case, Mr. Deputy Speaker, in regard to the occurrences of this province prior to the Court of Appeal ruling in this area in early March.

* (11:20)

The Natural Resources Transfer Act provided for those provisions. The ownership and management of Manitoba's water resources has always rested with the provincial government in this area. Historically, the management of the province's water resources has included the regulation of drainage works. Permits have been required by individuals to proceed with drainage in the province of Manitoba and in the majority of cases have proceeded without a great

deal of concern as individuals tried to improve their property management and their productive abilities in their individual farming operations.

Heaven knows that even from today's issue of the *Free Press* we know the tightness of concern in regard to the economic situation in the farm community today. Now that we have got a better crop coming, if you will, in many jurisdictions of the province, the prices have been somewhat lower and the overall economic impact is still going to be very tight. The margins are tight in this industry. Any kinds of rulings that we put on to restrict farmers in their ability to add value to their own property by enhancing their and in many cases their neighbours, through their ability to manage their own affairs in regard to drainage, it will very much be to the detriment of their abilities to add economic gross domestic product to the province of Manitoba, never mind keeping their own farms and families afloat in regard to the increased paper load and increased responsibilities that they may have in this area.

The Conservation Minister (Mr. Lathlin) has indicated that this government will release a discussion paper and initiate broad-based public consultations into the complete review of The Water Rights Act later this year. At the time of announcing the legislative changes he said that they would provide for a more harmonized approach to water management involving the Province and municipalities. I am sure the public would look forward to those consultations on this matter, knowing that drainage issues are not ones easily resolved.

I have referred earlier to their skepticism in regard to this whole process of public consultations. Like other acts it would be imperative that other than just appearing before a committee of this government, it would have been a good process for this government to have gone out into the public and dealt with this prior to passing these amendments to seek what was needed in that long-term approach. Now, having said that, I am also aware that there are permits out there waiting to be clarified today so that the industry can move forward with the implementation of these permits and make improvements that are required by those who are already holding permits who feel that the lack of getting

this legislation through is impeding their ability to move forward.

Very clearly the movement would require that these particular members in the communities want to get on with the drainage and process in their individual jurisdictions. This government will probably go ahead and put Bill 15, and I say probably because I would hope that they, as I said earlier, would bring forward amendments to it, and I will outline what some of those amendments should be in a moment. So if this bill is going to proceed as is without public hearings prior to its implementation, then I would indicate to the Deputy Speaker and to this House that those plans for long-term planning in the Province of Manitoba that some of the amendments that might be brought forward should involve a long-term plan that involves conservation district development, further conservation district development in the province of Manitoba.

We have many conservation districts that have been established throughout the areas of Manitoba today. They were developed, in many cases, under the previous government. We have watershed regions in the province of Manitoba as well, but these kinds of initiatives, if they are going to come forward, do need a commitment by the Government of the day to fund them. They need a long-term approach. They need funding and boards put in place to be responsible for their actions.

Mr. Deputy Speaker, first of all, I would reference some of the material that I have received from the Association of Manitoba Municipalities that indicates that they would support this bill, but they go on to outline, and I know they have made presentations to the Government's caucus, Cabinet and as well to ourselves, that they would perhaps support this bill on the condition that long-term programming takes place in the province of Manitoba, that it is funded, that watershed regions are eventually created. In a moment, I will outline why those should be developed.

Their concern, I believe, is that this government will move forward, and then in the public hearings this fall, after those processes are put in place, not come up with the long-term

needs to finance these and create bodies that will be underfunded in regard to the planning process required for upstream development in the full management process of what the impacts will be in that whole watershed region. This requires a financial commitment. That is why I said earlier that the Finance Department must be involved in regard to having persons in place that will have the authority to actually issue the permits required by the individuals for their individual cases in rural areas of Manitoba. It has to have funding to do the planning that must be put in place prior to the permits being issued. If there is no long-term plan, then how can a permit be issued under the present bill that might have implications down the road that are not unsolvable—I will not use that word, those terms—but create more difficulties than otherwise required, I think, would be the best way that it could be said at this time.

Mr. Deputy Speaker, the conservation districts, and I have had the opportunity last week to be associated with the conservation district tour in the province of Manitoba, fund a great—they are not high dollar. In many of the cases, they are not extremely expensive projects that the conservation districts are working with in the province of Manitoba today, but there are a great series of areas of forage development, small-dam projects, flooding of hay land, if you will, in the spring to allow it to run off later and thereby maintain very sound forage programs in the province of Manitoba. These conservation districts do a great deal of planning. They manage the resources they have very well, their very limited resources, I might add. They work co-operatively tremendously well throughout the municipal jurisdictions that they overlap on. At the present time, Mr. Deputy Speaker, water conservation district regions come together only through the co-operation of municipalities who want to voluntarily come forward and establish a conservation district.

So the No. 1 criterion is that they co-operate and have an ability to get along. A conservation district is not formed until that kind of responsibility is achieved in a particular jurisdiction or area of this province. I have just referred to many of the projects that they undergo, the forage programs, the conservation programs that they put in place, the damming,

the water use, drainage is part of that, tree lines, proper soil management. You will note that drainage is only one of those small areas. It is not digging ditches. It is not straightening out streams. It is purely the management of water on those occurrences that we have in place today on those rivers and streams and water bodies that are under provincial jurisdiction.

The Water Resources Act goes on to indicate that virtually every waterway in the province of Manitoba today can come under the jurisdiction of the Minister, if he so desires and, to a great extent, does not even need the co-operation of the local residents or the municipalities to do that if he felt so strongly in that act that he wanted to move in that area.

I think a much better approach is to work co-operatively with the conservation districts and let them develop the planning that is needed for their resources in their area. If ultimately the Province of Manitoba can co-operate, municipalities amongst each other, with the development of conservation districts throughout the whole province of Manitoba, then we would have the basis to move to watershed development projects and watershed development boards, if you will, throughout the province which would be a combination of even what we know today as conservation districts, leaving the conservation districts to continue their work in their own jurisdictions but knowing full well what the long-term plan was within their home bodies and within their watershed regions.

Mr. Deputy Speaker, I will digress for a moment and utilize the example of the jurisdiction that I am responsible for in Arthur-Virden. In 1999, we had a tremendous flooding of our agricultural lands in that region caused by some four to five feet of rainfall in some jurisdictions over a two-and-a-half-month period of time, including the spring runoff, and it created a devastating disaster that we, of course, are still requesting support from this government, having already put forward a good deal of support last year when my colleagues were in power.

* (11:30)

That whole region still is, if you will, pothole country. It is the differentiation of

topography that I talked about between some of the areas of the province of Manitoba. Of course, the Red River plains are a totally different type of soil structure and a totally different topography to the area that I am referring to, which is the western area of Manitoba. Therefore, while the same kinds of co-operation are required, while the same kinds of rules and regulations may apply in this province, throughout the whole province, we are certainly not asking for individual rules for individual areas. We are asking for the co-operative approach of developing a management plan throughout, that even though there are differences in topography, and I have discussed this with many of my colleagues, there are opportunities to enhance the farm communities in areas that have presently not had the opportunity to have done so in the past.

I refer to that because of the co-operation that took place between the municipalities, the individual farmers and the province in regard to development of a water management plan in the Red River Valley. Now there is no doubt that, as we have seen under the international joint commission paper and discussion that has come out this spring, there can still be a good deal more of that kind of co-operation going on, that perhaps there can be some water management structures in place that would allow for continued management of that water that would manage the flow in the Red River, and particularly in times of extreme flooding, as we saw here in the province in 1997.

I would go on to say that there is a huge benefit to the structures that have already been put in place, like the Winnipeg floodway and others in this province right now, as we have seen in the last few weeks by the heavy rainfall that has already occurred in this province, with that diversion being able to take a good deal of that waterflow out of the province's agricultural area while the crops are presently standing and growing and having saved thousands of acres in the valley under the recent rains we have just had.

Another prime example that I would use of responsible management that has taken place would be the development of the Lake of the Prairies, the Assiniboine area dam on the

Assiniboine River structure that has been in place for years in this province. While there were some concerns a few years back in regard to the proper management of such a facility, there is no doubt that the Assiniboine River has not created the problems year after year that it had created before such a structure was put in place.

The City of Winnipeg essentially looks at water problems coming from the south on the Red River today, not from the west through the Assiniboine area. It has saved not only the city of Winnipeg, but the communities along the way, including Brandon. A good deal of that dollar saving on an annual basis has certainly been what has been looked at in what I referred to as long-term management that is required in these structures. That also includes the Assiniboine River diversion in the Portage la Prairie area. While we know that there are concerns with these kinds of structures, there is no doubt that they have been for the long-term benefit of the province of Manitoba.

Mr. Deputy Speaker, in the region I am in, there are many farmers who would have liked to have done more in their area last year in regard to drainage of their individual operations. It was not the time to be looking at severe efforts, if you will, for want of a more severe term, to have been going helter-skelter in regard to drainage programs. These efforts should be done in times like this when there are times to manage the amounts of excavation, if you will, that may be done in regard to drainage. There needs to be a long-term plan put in place.

I would submit to you that even one of those situations, and I have seen one particularly where communities came together to look at the management of a particular waterway, if you will. We will refer to it as a drainage project, but it also involved a conservation mechanism for water to by-pass a community to eventually end up in a river jurisdiction. I am the first to concede that the people in the river bottom flats that are managing those operations today, in livestock jurisdictions, some of it as grain producing land, some of it is for forages for exports, have to be very concerned, we all have to be very concerned about the fact that those individuals paid for that land, regardless of how

many years they felt that they could utilize it, to proceed with the drainage projects that were required. I will only mention that expropriation may be required to be looked at in the long-term proposals that we are planning in these kinds of projects.

Mr. Deputy Speaker, I know that my time is getting close to wrapping up. I would just like to say that we will continue to be watchful as this bill moves forward to committee for the kinds of amendments that we hope the Government would bring forward. We know that a long-term approach is needed to address the question of water and how it is managed in this province. We would submit that the development of conservation districts and water management, watershed areas, watershed districts would be a long-term means of handling the situation. We know that the Association of Manitoba Municipalities wants to move ahead with this project but they do also want the establishment of these watershed projects and they want to be involved as well as local citizens and municipal officials to make up the boards of their being.

Clearly I will close there by saying that I first of all believe that this bill is redundant, that The Water Resources Administration Act already gives the Minister the power of jurisdiction that he is looking for, but if they are going to proceed, however, under the new definition that they have included in Bill 15 of "water control works" that they expand it to the jurisdictional use of conservation districts and watershed districts as a means of managing a long-term planning process and water control in the province of Manitoba.

Mr. Deputy Speaker: The Member for Arthur-Virden's time has expired.

Committee Change

Mr. Gregory Dewar (Selkirk): I move, seconded by the Member for Brandon West (Mr. Smith), that the composition of the Standing Committee on Public Utilities and Natural Resources be amended as follows: Transcona (Mr. Reid), St. Boniface (Mr. Selinger).

Motion agreed to.

* * *

Mr. Glen Cummings (Ste. Rose): Mr. Deputy Speaker, I would like to make some comments on this bill. My colleague from Arthur-Virden has done a very good job of taking an overview of this bill and in fact, points out that in many respects this bill could be considered redundant.

I would like to comment more on the broad problems that I see in this area and the fact that this bill will not solve the problems that the Department of Conservation has. It will answer the question that was raised and ultimately found in favour of the individual, as opposed to the belief of the Government and the Department that the Province had jurisdiction in all cases over management of water. It will deal, in the short term, with that problem of jurisdictional responsibility, but it does not deal with the big problem of whether or not this government has the fortitude and, indeed, the knowledge and the scope to deal with what has been a growing problem.

I think a number of us on this side would acknowledge that when we began the review of all of the water-related legislation in this province, we were indeed moving towards the revision of the relationship between province, municipalities and the individual on how we manage water in this province. I believe that the Minister of Conservation (Mr. Lathlin) will be moving forward with the continued review of those acts as we had contemplated a year and a half ago, but that raises all the more questions about the nature of this bill, these amendments, that the Minister has introduced and that we are currently debating.

There has long been concern in rural Manitoba about whether or not there is sufficient will and there are sufficient dollars to deal with the drainage control, retention issues that we see across the province. This has become an increasing concern because of the nature of the last two or three years where we have seen in parts of the province, in growing numbers, excessive water, flooding events, rainfall, snowfall, spring runoff, a combination of all of the events, topped off with the fact that we see a tremendous change in agriculture.

* (11:40)

We like to smile about the fact that the Minister of Intergovernmental Affairs (Ms. Friesen) is getting more control over what happens in agriculture. We referred to that as receiving word from the farmer from Wolseley. Now the Conservation Department is going to have control over more of the activity that people who want to practice agriculture in this province, their activity, will have to also answer to that department. As my colleagues pointed out this morning, I would ask where the Minister of Agriculture (Ms. Wowchuk) is in all this.

As we see these authorities being established, I know the rationale for establishing particularly this act, where it is in relationship to the Department of Conservation, that it is a continuation of the relationship that was there. But it does have, I think, the possibility of sending a signal to rural Manitoba that we are going to be facing increased regulatory control in the face of the very time when we have just spent a large amount of effort and a number of years talking to people in agriculture about the concepts of conservation, talking to them about the responsibility that goes with good husbandry on the land. Here we have a bill that not only extends but ensures the authority that was vested in this act in a way that, I believe in the long run, many Manitobans, particularly those on the rural landscape, would like to see totally revised and not just amended and tightened up.

So the real challenge in this debate, Mr. Speaker, is that we are quite dissatisfied having to deal with this, where there was one aspect of provincial responsibility that needed to be corrected, and several pages of amendments that have been brought in at this time. I wonder if the Minister of Conservation (Mr. Lathlin) had an opportunity to discuss with the Minister of Agriculture (Ms. Wowchuk) just how far some of these regulatory abilities would be exercised. I remember very well being questioned by the now Minister of Agriculture saying: Were we going to enforce this act? I remember being asked by municipal authorities: Were we going to enforce the Act? That was prior to these amendments. But the amendments are to an existing act and one about which there was considerable concern in the first place.

It seems to me that we need to have a stronger sense of direction from the current government about their intention in relationship to water management and how they intend to deal with that through this act, because the current Minister of Agriculture spent considerable time leaving the impression that every facet of this act should be implemented and enforced on the landscape. In fact, I made the comment in rebuttal to that that if all of the aspects of this act were enforced in their totality, there are not enough officers, there are not enough conservation officials, on the landscape to even begin to control and implement the implications to this act, in fact, to control the activity on the landscape.

I would ask, through you, Mr. Speaker, that at some point the Minister of Agriculture respond to how she sees this as impacting on the operations of those who are practising agriculture out across the province of Manitoba, because we have the people in the agricultural community, to some extent, starting to feel a little bit put upon. It may well be the results of the new generation thinking and concerns that we should all have. But at the very time that we are dealing with changes in agriculture, which lend us to move towards greater livestock productivity and the impacts that that has on the landscape, we also have, at this very time, further amendments to an act when we would rather that the Act was reviewed in its totality and implemented with some guidance as to the full extent of how the Province and municipalities intend to enforce this.

I would be the first to acknowledge that there is a huge discrepancy between some producers; there is a discrepancy between some municipalities; and there is a discrepancy between the Province, the municipalities, and the producers as to the requirement for regulation in this area. I know that, if we could have a system where this is closer to the ground, where people actually working in the area and understanding the demands of the agricultural community, the responsibilities of conservation, were administering this act, then I think people would have a lot more confidence. What we see today, and it is purely by coincidence, but, as I pointed out, we have these amendments along with other acts

being introduced that are going to compound the regulatory regime out there. If this government intends to do that, then it will live with the consequences of what I saw as an extreme reaction at one point in the history of this province, where people felt that their personal rights and their opportunities to improve and manage their production through the management of their land, the improvement, if you will, in some cases for draining, if that is going to be arbitrarily slowed down and impeded or put into a regulatory framework that is even more complicated than it is today, then there will be a backlash.

Mr. Speaker in the Chair

There are a number of organizations on the landscape that my colleague for Russell was extremely active in promoting, and, of course, I am talking about the conservation districts. I do not think that this bill or these amendments do anything to clarify the relationship between the Province, the conservation districts and the people on the landscape.

If I were to be critical of these amendments, I could be much less critical if the Minister would stand up and say this is only a temporary intervention. This is only a temporary step in order to clarify the existing act, and we intend to forge forward with the revisions of The Water Rights Act. We intend to forge forward to allow the management of the water closer to the source. I am talking about management of water for conservation and for consumptive purposes, the multiple use on the landscape which includes some drainage, some retention and long-term planning, for sure, that the—pardon me, Mr. Speaker, but the wind from the air conditioner is blowing my papers off the desk here, so I appear to be fumbling with my papers.

* (11:50)

An Honourable Member: It is all the hot air.

Mr. Cummings: No, no, it is the cold air. Some of my colleagues said it was hot air, and it is not, Mr. Speaker. It is cold air.

But when I look at some of the comments on the clarification aspects of this bill, one

comment that I had hoped would be the only clarity that we would have needed for these amendments was to clearly establish provincial authority over the control of water even where there is no use involved. That seems to me that that covers about all that these amendments needed to cover. But there are two or three of the comments in relationship to the extension of this bill that I think give me some concern about the flavour of what the Government is intending to do.

Further down it says that it wishes to clearly establish a licence as required for drainage and other control of water, not involving the use necessarily. It clarifies that ministerial orders apply to water control works even where the use of water is not involved, and the authority over the removal or closure of water control works to have water control where it is clearly included in emergency procedures. Well, after having lived through the flood of '97, I think maybe we are not too concerned about those sorts of issues, because indeed someone has to have authority for emergency purposes. But then we go on and it reinforces the authority, makes sure that the authority for application of licences that it may go to public hearings and reinforces that capacity.

Mr. Speaker, I have to ask and I know that it is easy to make the argument that if you are changing the landscape by drainage that you have a greater responsibility to the community and responsibility of conservation than you have in simply dealing with upgrades of the land. But today the people who own the land, the people who are making a living from the land who have the debt that they have acquired to buy the land that find themselves in one of the most dynamically changing resource industries in Canada, they will simply be putting them into a position of where there will be something akin to rebellion that will be felt by this government or by authorities of any kind if this is not implemented in a manner that is concise, understandable, and easy to get a yes-or-no answer from.

I know that even under the current structure there is a backlog. If these amendments are intended to change the force of action that the Department of Conservation may be under-

taking, then I would like some clarification from the Minister of Agriculture (Ms. Wowchuk), the minister of natural resources on this.

The Minister of Agriculture, in her role as opposition critic, was an advocate, and I say this in an unqualified manner. She was an advocate of stricter regulation in this area, the enforcement of these regulations, and requiring that those who chose to drain or otherwise redirect water on their property off the property and into other areas of their community, they must be regulated. There was no other way to interpret some of the questions that she raised and the concerns that she was bringing to this House. There were a number of municipalities who were asking for provincial regulation as well.

I hope that, as we get into committee, we will have an opportunity to hear from the municipalities. I am sure that, and let me make it clear, one of the issues that I would be interested in exploring with them is whether or not they intend to seek any co-operative administrative capacity with the Department of Conservation. It seems to me that we can have all the regulations in the world, but if this government does not intend to put some additional dollars into the conservation districts and into the establishment of more conservation districts, they are going to get themselves further and further into an administrative entanglement, if it is administered through a provincial authority.

I may have missed it, but I do not see anything here or anywhere else in the legislation that we are dealing with, that clarifies the ability of the Province to delegate, and whether or not the delegation of authority will cause more problems if it is improperly done. But it does help bring the responsibility closer to the local level and make it so that, whether it is municipalities or conservation districts, they can, on behalf of the Province, administer some of these responsibilities. That was an area that had some credibility.

It seems to me that it has some risk. I know that the legal community indicates there is significant risk associated with it, but in the administration of these amendments the Government is going to be taking a risk at any rate. You are going to be superimposing the requirements

of delay because of the workload that could be involved if some of the responsibility is not delegated. You are going to be facing the responsibility of management of waterways. I think there is an implicit responsibility.

I hope I heard the Minister of Intergovernmental Affairs (Ms. Friesen) respond in a positive way when I said: Is the Government prepared to put some more money into this area of responsibility? If the dollars that they intend to put in are for additional enforcement, I would be interested in that, not necessarily thinking that that would be the way to go, but I would like to know if that is their intent. If they have any intention of making this area so that it is more easily administered so that it can be seen and welcomed by the people on the landscape as operating in a co-operative way, it is going to have to have dollars for provincial waterways; it is going to have to have dollars for conservation districts; and it must be able to clarify and deal with the responsibility of delegation. As I said, if that is not occurring and if this is seen as a fix which may or may not be a cure-all in the eyes of some people, then I suggest that this is sorely lacking.

I would rather have seen this introduced with a very strong statement about further co-operation to ultimately work through the entanglement that I referred to earlier for the administration and control of volumes of water that we have to deal with in agricultural Manitoba on some of the more fertile lands, the reality of the landscape, that some of the more fertile lands—the Red River Valley would be one example. I have an example of long-outstanding issues around water control and management where the water from the highland ends up around Big Grass Marsh down through Gladstone and Westbourne, and it is a problem that is going to require an awful lot of provincial and local input and some commitment of dollars before it will ever be adequately solved.

The Minister across might well say I was responsible for this area, and I directly represent many of the people involved in this debate. The fact is it does come down to a dollars issue, and by simply making these amendments to the Act, I do not have any particular confidence that the Government has anticipated what all of the other

responsibilities that go with the taking the regulatory authority that they have, reinforcing it and not putting it into the context of a long-term plan.

Mr. Speaker, there are a number of acts that I hope the Government is going to be reviewing: The Dyking Authority Act, The Ground Water and Water Well Act, The Rivers and Streams Act, The Water Power Act, The Water Rights Act, The Water Supply districts Act. We have now got ourselves into a situation where there is conflicting and/or overlapping authorities that need to be dealt with, so that the bigger picture

can be unfolded for the people of rural Manitoba.

When the review of these acts is brought forward, I hope that the--

Mr. Speaker: Order. When this matter is again before the House, the Honourable Member will have 19 minutes remaining.

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

LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, June 29, 2000

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