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THE LEGISLATIVE ASSEMBLY OF MANITOBA

8:00 o'clock, Tuesday, March 17th, 1964.

MR. CHERNIACK: . . . is shaking his head at me. Would he permit me to ask some questions now? It was dealing with his suggestion that a safety, the safety committee might be prepared or might deal with this question of bonding, and I would ask him my first question: does he believe that this safety committee as set up by this body, will it have the right to deal with the bonding for NSF cheques, and deposits and that type of thing dealt with in this resolution, would it have the power under its terms of reference; secondly, and an unrelated question: he mentioned to us that one man is in jail now for a fraudulent act of the nature we've been discussing -- could he inform us whether there is any financial protection offered by our present law or by his office to those people or that person who suffered loss because of the fraudulent act for which the person is in jail?

MR. STEINKOPF: Madam Chairman, I'll attempt an answer to the second question first. I know of no way that those people who have suffered because of the acts of the man that is in jail can recover -- I know of no fund or of any method that they can recover. On the first question: the terms of the safety committee are rather broad, there's one clause in there that asks for a very general investigation into matters relating to safety, and although the committee will have no power to pass any legislation, they do have the power to make a report and to recommend. It would be my thought that the committee will certainly make some recommendation in connection with matters of safety relating to the operations of used car dealers, and in the course of that I can conceive certainly a discussion taking place relating to the safety of finances of those people who deal with the used car dealers. There are many ways of doing this besides bonding -- although I don't want anything to be inferred from these remarks that we are not in favour of bonding -- but we would like to look at this matter from every aspect and if the safety committee does not come up with a suggestion or any obiter remarks it would be our intention to bring forth the necessary legislation at a very early date in order to protect the man who is fleeced by these scoundrels.

MADAM SPEAKER: Are you ready for the question?

MR. HILLHOUSE: Madam Speaker, I wish to move, seconded by the Honourable Member for Lakeside that the debate be adjourned.

Madam Speaker presented the question and after a voice vote declared the motion carried.

MADAM SPEAKER: The adjourned debate on the proposed resolution of the Honourable the Member for St. John's. The Honourable the Member for Wellington.

MR. RICHARD SEABORN (Wellington): Madam Speaker, I listened to the Honourable the Member for St. John's with a great deal of interest. In fact I have reread his speech all over again in order to understand his motive and intention. If one examines the various resolutions this honourable member has introduced into this House during the past few weeks, one will be struck with his concern over the weaknesses of human nature; and when one appreciates his motivation and concern for those who are apparently tricked or trapped by their fellow creatures, one will understand I think why he belongs to his particular party.

Unfortunately one cannot legislate to protect the innocent or the unwary, and when we attempt to do so, we only intrude the power of the state upon society without resolving the problem. There is no area in our society where abuse exists as in the realm of credit and the interest attached thereto. I can remember the former Attorney-General explaining his original bill with the same enthusiasm as shown by the Honourable Member for St. John's, but the desire to do something about it was easier than its fulfillment. This merely bears out what is happening elsewhere for there seems to be no solution which is acceptable or can be put into effect, either in Canada or in the United States. I am not an authority on this subject but in reviewing the debates from last year I notice the then Attorney-General found one of his colleagues in the field of law questioning the validity of the legislation that he proposed. And further, he also learned that there were at least seven different ways of calculating interest known to the actuary, and it is of interest I think that the legal complications, together with the almost impossible task of computing the interest led this House to accept amendments which asked for the extra charges to be shown in dollars and cents. And actually when you consider the matter, it really doesn't make much difference how the facts are revealed as long as the public knows what it has to pay in addition to the basic cost. I really think this is about as far as we can go in this direction, and I think he will appreciate the

(Mr. Seaborn, cont'd)...difficulties are great. In fact if I remember correctly he acknowledges that this was so. But we cannot really prevent the sort of thing my honourable friend is concerned with; we cannot change human nature, law or no law. We have an unconscionable transaction act before us and if anyone gets entangled with a 31 or 32 percent interest rate on a loan, as the honourable member suggests, I am sure he will be able to appeal against it through this legislation.

Now, Madam Speaker, I know I have not satisfied my honourable friend but I would suggest his proposal has been tried by this government but was found impractical and incapable of fulfillment. I cannot see how the situation can have changed since that experiment two years ago, and I think he will understand my lack of enthusiasm for his resolution.

MADAM SPEAKER: Are you ready for the question?

MR. PETERS: Madam Speaker, I beg to move, seconded by the Honourable Member for Seven Oaks that the debate be adjourned.

Madam Speaker presented the motion and after a voice vote declared the motion carried.

MADAM SPEAKER: The adjourned debate on the proposed resolution of the Honourable the Member for St. John's. The Honourable the Member for St. Matthews.

MR. W. G. MARTIN (St. Matthews): Madam Speaker, I crave the indulgence of the House to let this matter stand.

MADAM SPEAKER: Agreed. The adjourned debate on the proposed resolution of the Honourable the Member for Elmwood. The Honourable the Member for Swan River.

MR. BILTON: Madam Speaker, I too would ask the indulgence of the House to let this matter stand.

MADAM SPEAKER: Agreed. The adjourned debate on the proposed resolution of the Honourable the Member for La Verendrye. The Honourable the Member for Turtle Mountain.

MR. SEABORN: In the absence of the Honourable Member, Madam Speaker, may I ask the indulgence of the House to let this matter stand.

MADAM SPEAKER: Agreed? The adjourned debate on the proposed resolution of the Honourable Member for Gladstone. The Honourable the Member for Dufferin.

MR. W. W. HAMILTON (Dufferin): Madam Speaker, according to the resolution, there seems to be concern shown by some landowners in the western region regarding top soil damage by contractors which I don't think warrants the case. At the present time Interprovincial have approximately 200 lines across the province and Trans Canada have about 250, about 50 miles in rocky land. Anglo Canadian lines have about 50 miles in the ditch to Brandon. Most of these large lines are under the federal jurisdiction. There are approximately 130 miles of pipeline in this oil field and about . . . required, I think about 24 inch depth and 30 feet of easement. Now this much soil damage . . . in that line. The contractors are fully aware of the situation. In my opinion the actual damage is small. According to the Honourable Member from Gladstone consultation has been made by these contractors in cases where damage and loss of soil fertility have occurred, which must have been satisfactory I think to the landowner. I believe the farmer or landowner should himself see to it and have a written guarantee from the contractor that the top soil will be given consideration in replacement. Surely the landowners concerned are able to look after their interests in this matter and I think it is very important. I know if I was approached by a pipeline contractor to lay pipe across my land, it would be under my personal supervision regarding soil replacement.

I don't think this situation is quite as serious as the Honourable Member from Gladstone-Neepawa has reported, therefore I would beg to move, seconded by the Honourable Member for Fisher that the resolution be amended by striking out the words: "there is a great deal of damage being" in the second paragraph of the preamble thereto and substituting therefor the words: "Certain damage has been" so that the paragraph reads as follows: "And whereas certain damage has been caused to valuable farm land by improper methods of moving and replacing soil when projects are being constructed; (b) and by striking out all that part thereof after the second paragraph of the preamble and substituting therefor the following: "and whereas the Department of Agriculture and Conservation has had this matter under close study and is making every effort to reach an understanding with pipeline companies and contractors to ensure that every reasonable precaution is taken in pipeline construction to protect and preserve the fertility of the soil; therefore be it resolved that if the Department of Agriculture and Conservation is unsuccessful in

(Mr. Hamilton, cont'd)...reaching a satisfactory understanding with the pipeline companies and contractors that the government consider legislation to enforce construction methods in pipeline construction which will protect and preserve the fertility of the soil.

Madam Speaker presented the motion.

MR. SHOEMAKER: Madam Speaker, I beg to move, seconded by the Honourable Member for St. George that the debate be adjourned.

Madam Speaker put the question and after a voice vote declared the motion carried.

MADAM SPEAKER: The adjourned debate on the proposed resolution of the Honourable the Member for Brokenhead. The Honourable the Member for Winnipeg Centre.

MR. JAMES COWAN, Q. C. (Winnipeg Centre): Madam Speaker, may I have the indulgence of the House to allow this motion to stand.

MADAM SPEAKER: Agreed. The proposed resolution standing in the name of the Honourable the Leader of the Opposition.

MR. GUTTORMSON: Madam Speaker, may we have the indulgence of the House to have this matter stand.

MADAM SPEAKER: Agreed. The adjourned debate on the proposed resolution of the Honourable the Member for Brokenhead. The Honourable the Member for Lakeside.

MR. CAMPBELL: Madam Speaker, I have twice tested the patience of the House today; I would ask on behalf of the members that this matter be allowed to stand.

MADAM SPEAKER: Agreed. The adjourned debate on the second reading of Bill No. 47. The Honourable the Member for Brokenhead.

MR. SCHREYER: Madam Speaker, I adjourned the debate on second reading because upon listening to the explanation given by the Member for Pembina, I thought that I detected something slightly untoward in the explanation but upon reading in Hansard I find that this is not so. Therefore, I have no statement to make with regard to the Bill at this time.

Madam Speaker put the question and after a voice vote declared the motion carried.

MADAM SPEAKER: The adjourned debate on the second reading of Bill No. 41. The Honourable the Member for Brokenhead.

MR. SCHREYER: Madam Speaker I adjourned the debate for someone in the group, and I've forgotten for whom. If no one is going to speak I simply ask that it be allowed to pass.

Madam Speaker put the question and after a voice vote declared the motion carried.

MR. J. E. JEANNOTTE (Rupert's Land) presented Bill No. 52, An Act to incorporate The Catholic Foundation of Manitoba, or La Fondation Catholique du Manitoba, for second reading.

Madam Speaker presented the motion.

MR. JEANNOTTE: Madam Speaker, there is not too much to say about this bill. I think it pretty well explains itself. However, I took pleasure in sponsoring the bill because its purpose is to set up a foundation to receive donations that can be used for charitable purposes. It's a very impartial bill and in effect its purpose is to assist without discrimination as to religion, race or creed. It's for the providing of care to the needy; care to the aged and the destitute; and the providing of educational advancement of scientific research for the increase of human knowledge and the alleviation of human suffering.

Madam Speaker put the question and after a voice vote declared the motion carried.

MADAM SPEAKER: The adjourned debate on the second reading of Bill No. 73. The Honourable the Member for St. Boniface.

MR. GUTTORMSON: Madam Speaker, may we have the indulgence of the House to have this matter stand?

MADAM SPEAKER: Agreed. The adjourned debate on the second reading of Bill No. 83. The Honourable the Leader of the New Democratic Party.

MR. PAULLEY: Madam Speaker, I adjourned the debate on this bill because I had thought I heard the honourable member who introduced it make one or two statements, but I reconsidered what I thought that he said and I'm now prepared to allow this bill to proceed.

MR. HRYHORCZUK: Madam Speaker, talking to this bill, I wonder whether there is something wrong with the acoustics in the House, or is our sound system not working properly. We've heard the same excuse from two members and I just wonder whether there isn't something that should be looked into.

Madam Speaker put the question and after a voice vote declared the motion carried.

MADAM SPEAKER: The adjourned debate on the second reading of Bill No. 80. The Honourable the Member for Selkirk.

MR. HILLHOUSE: Madam Speaker, the Honourable Member for St. James when he introduced this bill said that the only reason why he was introducing it was so that justice would be done.

In opposing the second reading of this bill, I oppose it on the grounds that justice is a double-edged sword and that all parties to litigation are entitled to justice in the same degree. Now this bill, Madam, arises out of an action which was commenced in the Court of Queen's Bench, Winnipeg, against two Winnipeg doctors -- and I may as well mention their names because they have been mentioned in the newspapers -- Drs. Rennie and McBeath, on behalf of a Mr. and Mrs. Radclyffe. And the action was brought in respect of an operation performed on Mrs. Radclyffe in 1959, in which it was alleged that Drs. Rennie and McBeath had failed to remove a piece of gauze from the operative wound before closing the wound. The defence to the action was a denial that the gauze was left and insofar as Dr. Rennie was concerned it was proved to the satisfaction of the court that he took no part in the operation and as a consequence the action as against him was dismissed.

Now insofar as Dr. McBeath was concerned evidence was lead to establish that in this operation which he performed on Mrs. Radclyffe in 1959 at the Misericordia Hospital in Winnipeg, he used a special type of gauze sponge, known as an opaque radio sponge which would show up under an X-ray. Now it was evident from that that the gauze could not have been left in Mrs. Radclyffe in respect of the 1959 operation. During the course of the trial evidence was given to the effect that she had had an operation in 1944 performed by Drs. Rennie and Mackey. Now the unfortunate part about the 1944 operation was -- which was performed in the Winnipeg General Hospital -- the records of the hospital had been microfilmed and the only portion of the record of that particular operation which had been retained was the portion relating to the hospital record. Now that hospital record showed that there had been a sponge count in respect of that operation and the nurse in charge of the operating room had indicated a correct sponge count. Now unfortunately Dr. Rennie, who is an exceedingly busy surgeon, has performed hundreds of operations since that operation was performed in 1944 and he is without the benefit of the records, or the record which he made of that operation on the back of the hospital record. Now if this Legislature should grant the prayer for relief of Mrs. Radclyffe, it places Dr. Rennie in the position where he of his own personal knowledge has no recollection of this particular operation and he is confined to what records are available from the hospital, and he is also confined to a statement that he believes that in the operation which he performed on Mrs. Radclyffe in 1944, he followed what was considered to be the usual practice in such matters, that as far as he knew there was nothing left in the wound; that he checked with the nurse in charge of the operation; that she indicated a correct sponge count; and following what is the practice of surgeons in our hospitals, he proceeded to close up the wound.

I submit with all due deference that before this House passes this bill and grants this relief -- which by the way is only relief entitling the woman and her husband to bring another action against Dr. Rennie -- I submit that this House must be reasonably certain that there is at least a prima facie case of negligence established against Dr. Rennie. Now I submit on the basis of the evidence which will be available in the event of any action being brought against him that that evidence is not available. The only evidence which Mrs. Radclyffe, or her husband could introduce would be the fact that she was operated on in 1944 by Dr. Rennie, which he admits, and the hospital records. Now these hospital records show that there was a correct sponge count.

In the case which was appealed to the Manitoba Court of Appeal, the judgment of the Manitoba Court of Appeal I think was -- the judges were unanimous in dismissing the action against both Drs. McBeath and Rennie. But in dealing with the 1959 operation, I think I should point out to the House that Mr. Justice Freedman was not satisfied that in the 1959 operation that it had been proved beyond any reasonable doubt that only an opaque radio gauze had been used. I think Mr. Justice Freedman -- I haven't got a copy of his judgment here now. I read it once but that was the conclusion that I came to that he was not satisfied that that had been proved beyond any reasonable doubt. He was only satisfied of this that the hospital at that time was using opaque radio gauze, but he felt -- and if I am wrong in what I say, I will stand to be corrected -- he felt that it could have been possible for some gauze other than radio opaque gauze to be used on

(Mr. Hillhouse, cont'd)... that occasion.

Now I don't want to go into the question of law, because that's something to be argued in the courts. But I do think from the evidence that I have read and from the statements that I have made that no prima facie case would be established as against Dr. Rennie in respect to the 1944 operation. I think that Mrs. Radclyffe and her husband and the petitioner in this particular bill must show that there is negligence or a strong presumption of negligence on the part of Dr. Rennie before this House should grant the relief which is asked; and since the only records available as to what transpired in 1944 are the records of the Winnipeg General Hospital, records which are incomplete by reason of the fact that they contain no reference at all to the doctor's report which had been written on the back of these records. Now these records only show that there was a proper sponge count, and I think on the basis of the meagre evidence that is available in this case that justice would not be done by this House granting the relief of the petitioners -- and I say that, Madam Speaker, with all due deference and with the greatest possible sympathy for what Mr. and Mrs. Radclyffe have suffered. But the point is this, Madam, that notwithstanding the fact that they have suffered, we in this House should be reasonably certain of our ground before we make someone else suffer. I submit that if we allowed this bill to go through that we would be placing a man twice in jeopardy, and before we do that we should be reasonably satisfied that at least a prima facie case of negligence is made out against him. And I submit in this particular instance no such case has been made out.

MR. SCHREYER: Madam Speaker, would the last speaker permit a question? Would he explain his reference to "double jeopardy" there just a little more...

MR. HILLHOUSE: What I mean by double jeopardy is this Madam, that Dr. Rennie has already been sued by this plaintiff in the action which was brought against him and Dr. McBeath. Now, if this bill goes through, it would give to the plaintiff a right to bring in a further action against Dr. Rennie. Now, the action which they already brought was in respect to an operation performed in 1959, and this right would be in respect of an operation performed in 1944, which was 20 years ago, and I submit on the basis of time alone and the basis of frailty of human memory and the lack of medical records that it would be most unjust for this House to grant relief.

MADAM SPEAKER: The Honourable Member for St. Vital.

MR. GROVES: Madam Speaker, would the honourable member mind answering this question? In his reading of the evidence in this case, did he find anything to prove that the statement that has been made that the Radclyffes were unable to get any doctor in Greater Winnipeg to appear on their behalf as a witness?

MR. HILLHOUSE: All I know is that the Radclyffes did subpoena Doctor Reid from Selkirk and for some reason or other they never called him to give evidence. But as to there being no doctors available, I understand that there were six doctors from the Greater Winnipeg area who were called to give evidence on behalf of the defendant and that the evidence they gave on behalf of the defendant was to the effect that there was a reasonable presumption that this swab or whatever it was had been left in in some operation prior to 1959.

MR. PETERS: Madam Speaker, all I know is that there was a gauze left in by somebody and if the Honourable Member for Selkirk knows so much about the whole thing let him tell us who left the gauze there because he seems to know about the radio active gauze, he knows about the other gauze and everything else. He tells us that we should have a prima facie case and that we -- he's trying to make us the judge and jury here on judging who left or who didn't leave. I think that we should let this go to second reading and let the court decide who is going to -- and let them find out who left the gauze. There's one thing that is certain, if there is a gauze left inside this woman, somebody left it there. It didn't crawl there by itself.

MR. HILLHOUSE: Not that I want to interfere or interrupt in any way, but there is one thing I'd like to point out to the honourable member who has just spoken. Certainly there was a gauze left in there but what I'd want to point out is this, that you would have to show that that gauze was left in by reason of the negligence of the surgeon who was performing the operation and the practice in the Winnipeg General Hospital, where the operating room is furnished by the hospital to the surgeon and the nursing staff and the operating staff are furnished by the hospital, if there was any negligence on the part of a nurse in making an improper count, that negligence would be imputed to the hospital and not to the doctor who performed the operation, unless of course the doctor could have seen by an examination of the wound that it was there.. And what I

(Mr. Hillhouse, cont'd)... want to point out to my friend who has just spoken: yes there was a gauze left in there; but, if that gauze was left in through the negligence of a nurse -- and there must have been some negligence somewhere, because she gave a proper count -- then that negligence would be imputed to the hospital, unless two gauzes were stuck together which has happened in operations and she made an improper count of the number of gauzes used. Now that could have happened. But I don't know how the gauze was left in there; neither does Dr. Rennie by reason of the fact that the operation was performed over 20 years ago. This woman had reasonably good health; she never complained from 1944 to 1959.

MR. CHERNIACK: Madam Speaker, I've been quite vexed in my own mind about this case, torn as I was between the emotions that I feel and which the Honourable Member for Wellington had occasion to decry just a short while ago, of sympathy for persons who are adversely affected by life, and pulled as I am on the other side by my legal training which does teach me that there has to be a limit, there has to be some time when you know the chapter has been read and the book has been closed and there has to be an end. I was not aware, I hadn't read the Orders of the Day sufficiently to realize that this matter would be dealt with today and I haven't got all my thoughts so set up that I could spell them out readily but I did think that I would be inclined to let the matter go to Committee in order to hear representations. I recall, Madam Speaker, that last year there was a brief discussion that if you vote for a bill on second reading it is presumed that you agree with the principle of the bill unless you take the trouble to stand up and say that you are going to vote for it even though you have certain doubts. I think that was used last year effectively by several members of the House.

I would like to express my doubts a little more precisely than just in a general way. The last statement made by the Honourable Member for Selkirk would seem to indicate that if a cause of action could be brought or an action could be brought it possibly ought to be brought or have been brought against the hospital, and yet the bill does not in any way contemplate suing the hospital. Well, if the Honourable Member for Selkirk is right in that suggestion, I suppose that in Committee it could be changed to enable the hospital to be sued. This again is still a serious problem because 20 years have elapsed and 20 years are a very long time to expect people's memories and the records of the hospital or of the doctors involved to be sufficiently full or to be available at all to be able to let them contest such an action.

On the other hand, the plaintiffs or the persons aggrieved in this case have the same problem and a greater one because the onus is on them to prove their case, rather than just to set it up and say now you defend it and if you don't succeed in convincing the judge that we are wrong then we succeed. That is not the case. They must prove the case first. So that the responsibility placed on the two petitioners is, I think, a more serious one from their standpoint than the question of defence.

I am also not too much moved or influenced by the thought of the double jeopardy. The principle of double jeopardy as it applies to criminal law is one which is basic for which we must all fight; and that is a person who has been put in jeopardy as far as a criminal charge is concerned must not again be put in a position of having to defend himself again in a criminal charge, for the same incident, for the same set of facts.

In this case, however, in a civil action, there is, of course, the concern and the worry that any defendant suffers. There is also the cost involved, but to some extent, to a partial extent, there is relief from the fact that costs could be awarded against the plaintiff.

I think probably what motivates me most in voting in favour of second reading, so that this should go to Committee and be discussed there, and after representations may be heard, is the fact that our Limitation of Actions Act which is the one involved in this case, does accept the principle that there are certain circumstances under which the limitations are removed or extended. Once the principle is there then we are put on the responsibility by this Bill of deciding whether it applies in this case. Now Section 4 of the Limitations Act deals with concealed fraud; there may have been a fraud but it may have been concealed; the persons affected by it may not have known about it. And in that case the Act specifically states that "the cause of action shall be deemed to have arisen when the fraud was first known or discovered." Not when it took place, but rather when it was discovered; and then the limitation period starts to run. Furthermore Section 29 (1) deals with The Landlord and Tenant Act and again deals with fraud -- concealed fraud, and postpones the commencement of the waiting period. Section 6 of The Limitation of

(Mr. Cherniack, cont'd). . . Actions Act deals with a disability. "A person suffering under a disability may bring an action within the time limited or at any time within two years after he first ceased to be under disability." And Section 48 reads similarly. So that a person who for some reason is unable to go into court -- and I think this applies to a minor, and I think it may also apply to a person who is mentally affected for some period of time -- then that person may bring the action within two years after he has ceased to be under the disability. This could be 20 years after the cause of action arose. Section 18 of The Limitation of Actions Act deals with succession on death, that is a right which is acquired by a person because of the death of another -- "and the right shall be deemed to have first accrued at the time of the death of the predecessor." So in these instances that I have given -- I noted them out of The Limitation of Actions Act -- there is a clear cut recognition by the legislature at the time, which passed it, that there are certain circumstances under which the time limit should be extended. Now in this case, as far as I know -- and what I know I don't know to the extent that the Honourable Member for Selkirk was -- I only know what I read in the Bill and what I remember reading in the papers and what I read in a very distorted memorandum which somehow appeared on my desk -- I shouldn't say distorted but very partisan memorandum which appeared on my desk a few days ago. I don't accept any of it, but as I understand what happened, the presence of the gauze was discovered only recently and it seems to me that there is some justification in considering that the time limit should only start to run when the presence of the gauze is discovered, because if the presence wasn't known and if there was no aggravation of any injury, then the person adversely affected had no reason to believe that there was need to commence action. So that I must recognize that there is something unfair if the law is applied harshly.

Now Madam Speaker, I want to consider the other aspect of this case which troubles me. And that is the thought that some people have, that anything that happens that's adverse, as a result of medical treatment, is the fault of a doctor for which he should be punished or for which he should be liable. I have my quarrels with certain doctors of course, in some respects with the medical profession, but certainly Madam Speaker, I reject the thought that doctors are always either right or wrong in the work they do. They can't -- they are practitioners of an art which is many, many centuries old and they would be the last to claim that they have now refined their art to the extent where they know that what they do is either exactly right or exactly wrong. I think it is wrong Madam Speaker, for doctors to be placed in a position where they must always be accountable, financially, for every time something goes wrong, either in their judgment or in the application of their work.

I think that we must recognize that once they are entitled to practice, once they measure up to the qualifications, which are high, and the standards which the medical profession sets for itself are very high, then they should not be constantly under the threat of actions for this, that or another thing. And having said that I don't for a moment brush aside the suffering that often comes after treatment has been given but many times this suffering comes and is preferable to the death or the worst suffering that may have occurred had the doctor not had the courage to take the case in hand and to give the treatment which in his judgment he felt desirable. In this case I have complete sympathy with the suffering of these parties but I have a greater respect -- I think I have a greater respect for the medical profession and for its good motivations in cases of this type. I have no doubt that if an accident occurred, it was an accident for which the doctors could not be blamed as being grossly negligent or in any way should be placed in the position in which they will be placed should this action go ahead; and yet, I feel the decision as to right and wrong, as to liability and as to damages should not be made in this legislature by these legislators, but rather by a court. That is in relation to the damage caused.

Therefore, for the various reasons I have given, which to me are fairly good reasons, and yet I have doubts about them, I feel that I must vote in favor of second reading, so that we could hear representations. I certainly reserve the right Madam Speaker, after these representations to reverse myself and vote against the passage of the bill.

MR. GROVES: I think as I listened to the Honourable Member from Selkirk he gave pretty good evidence that he had read over the evidence in this case and was pretty familiar with it and gave some pretty convincing arguments from the point of view of the doctor. He may well be right and I don't want to get involved in who is right and who is wrong in this case, and I don't think this Legislature should, but we do have a Private Bills Committee that is set up to consider

(Mr. Groves, cont'd)... these bills. This Committee can hear representations on behalf of the doctors involved and can also hear representations on behalf of or from the persons who feel they have been aggrieved. I don't really think it is up to us to judge one way or the other. I think first of all our committee should look into this and decide whether there is a case for extending the statute of limitation and then we should leave it up to the Court to decide who is right and who is wrong; I really don't think that we should get into the position of being a judge and jury in this House. But in all fairness -- and again, I want to emphasize I don't know who is right and who is wrong and I don't want to have to be in the position of deciding -- but in all fairness after what the Honourable Member from Selkirk said this evening I think that I should read into the record at least a few paragraphs of the brief that was prepared by the persons who want this relief, and with your permission I will do so now. I won't read it all, but certainly a few paragraphs that I think at least warrant sending this bill to committee.

"On May 24, 1961 Dr. McBeath made a statement to Mr. Radclyffe to the effect that he took full responsibility for leaving the gauze there. In the month of August 1961, Dr. McBeath was approached regarding the possibility of some compensation for the pain and suffering which Mrs. Radclyffe experienced by the ordeal of four operations on her kidney in an 18-month period plus the expense of three additional operations required to eventually recover the gauze. This discussion was conducted in a frank and friendly manner and was concluded by Dr. McBeath saying, go ahead, you've got a good case.

"During subsequent proceedings in the Court of Queen's Bench, Dr. McBeath denied responsibility for the presence of the gauze in Mrs. Radclyffe's kidney area. His testimony was substantiated by six other surgeons who appeared as witnesses for the defense. It was apparent that the defense was changed ten days before the trial. No medical witnesses appeared for the plaintiff and none could be obtained locally. Judgment in Court of Queen's Bench was given in favor of the defendant on the ground that the plaintiffs had not proven their case.

"Inasmuch as expert medical witnesses have testified that in their opinion no gauze entered the incision in 1959, the evidence disclosed that the only other possible occasion would be the 1944 operation" and then it goes on to state the section of the Act which deals with the limitation: "No duly registered member of the College of Physicians and Surgeons of Manitoba shall be liable in any action for negligence or malpractice by reason of professional services requested or rendered, unless the action is commenced within one year from the date when those professional services terminated."

Now Madam Speaker I don't read this into the record for the purpose of influencing the members of the legislature in favor of Mr. and Mrs. Radclyffe but only in fairness to some of the evidence that was read by the Honourable Member from Selkirk. I do think Madam Speaker, that this is a matter which should go before the Private Bills Committee and they decide on the basis of the representations that are made there, whether or not there are just grounds for waiving the Statutes of Limitations in this respect.

MR. HRYHORCZUK: Madam Speaker, there is just one point that I think should be drawn to the attention of the members of the House. I'm not opposed to this bill going to the committee, but there has been quite a bit said about the members of this House acting as the judges in the action and stating whether the petitioners are entitled to damages and the reference was made that the matter should be decided by the courts. All I want to do Madam Speaker, is draw the attention of the members of the House to a possibility: when this bill is passed and becomes law it will entitle the petitioners to file a statement of claim against Dr. Rennie. Now it isn't always the case, in fact to put it the other way, there are many instances that once a statement of claim has been filed, it is sometimes said, and rightly so, that a bad settlement is sometimes better than a good case. There is just the possibility from what the Honourable Member from St. Vital just said that the Doctor had been approached about a settlement in this matter, we are just going to strengthen the hand of the plaintiff insofar as the approach for a settlement is concerned and the matter may never get to court at all. It may be settled out of court. And if such should happen, then to some degree we will be judge and jury and I think that should be kept in mind when the matter comes before the committee.

MR. MARTIN: Madam Speaker, a layman perhaps doesn't -- there are many things he doesn't understand concerning many professions. We discover that in the Law Amendments sometimes when we have got a lot of lawyers around us and so forth; and I'm a layman when it

(Mr. Martin, cont'd)...comes to this question. But we hear from time to time of cases similar to this, news items in the press and so forth. I don't think it is anything that should be treated lightly. Several things have been made clear to us tonight in the presentation made by the Honourable Member for Selkirk and I mention this as my reason for feeling that this should go to the Committee. There is no doubt but what there was gauze left in the anatomy of this woman. It's generally considered I gather from the Member for Selkirk, that it likely happened in the 1944 election, operation, not the 1959 -- of course when you think of operations Madam Speaker, you automatically think of elections -- but the 1944 operation is the one that we have in mind because it was said in the 1959 operation there was used radioactive gauze and it would have become very apparent. Then of course it was suggested that who is to say it was the doctor. It might have been the nurse, someone that assisted in the operation. So between one and the other the fact is the gauze was left, the operation was performed and either a doctor or a nurse was responsible. Then another thing is that I understand when it was appealed there was a divided judgment. We heard reference was it to Mr. Justice Freedman, his opinion?

MR. HILLHOUSE: ... As far as the outcome of the trial was concerned it was unanimous certain evidence.

MR. MARTIN: I'm a little confused on one item, and that is, the Honourable Member for Ethelbert said that this would give them the right to file action for a claim, and the Honourable Member for Selkirk said that this merely gives them the right to take further action. There seems to be confusion about the whole thing, and is a very important, a very vital matter because of the uncertainty attached to it. I think for my part this should go forward to the committee.

MR. LISSAMAN: Madam Speaker, I wonder if I might make one or two comments on this. We have had bills of this type, a similar type of bill before committee at other times and one thing that's always bothered me to a degree is the fact that while we are not acting as judges, we are simply allowing the case to be presented to a court, I often feel we are hindered to quite a degree. We have at times heard quite conflicting stories from both sides and I would feel as a legislator far better in my decision as to which way I vote if these people in cases of this type were put on oath before a committee and you would at least have the feeling that they are being restrained to the degree that there was some reason to tell the truth, because I've thought at times before either one side or the other in one or two cases that I can recall were at least a little bit at variance with the truth. I was wondering, Madam Speaker, if there might be some process by which in a case of this kind where we could put petitioners on oath before a committee.

MR. JOHNSON: Madam Speaker, in speaking to this resolution I just want to say a few words. Much like the Honourable the Member from St. John's my thoughts are not organized, nor have I the legal background to express an opinion. I just want to as a member of this House say first of all that I certainly respect those reasons for my colleague the Member from St. James bringing forward his resolution, the compelling humanitarian reasons, because of the suffering which was occasioned in this case.

However, I share much the views of the Member from St. John's and the Member from Ethelbert Plains, who have pointed out that this, as I understand it, could possibly do more harm than good. I see tremendous dangers to this, in any of these statutes extending the statutes of limitation. I know in experience to date in Law Amendments Committee the honourable members I think in this House have shown tremendous wisdom in their handling of cases to date.

My understanding of this case is skimpy. It is just what I have heard. I have not spoken to any members of the medical profession, the doctors concerned whom I know well by reputation, nor have I read anything more than has been expressed by the Member from St. James. One thing that strikes me, of course, in reading what I have on this case is the fact that although radio opaque sponges were in operation and in use in this major teaching hospital at the time that this patient was operated on in 1959, the learned judges were not able to determine from evidence that they were presented with that this was in fact located there and was not seen apparently by X-ray at that time. The thing that worries me is, and let me say this, I think it is absolutely fantastic -- and I say this honestly and not as a member of the profession but having served in public office as the Minister of Health for seven years and being familiar with the hospital problems, it's amazing to me that of the thousands and thousands of procedures that go on in this province daily, or weekly, that we get so few claims, or accidents, or freaks or those --

(Mr. Johnson, cont'd) . . . what do you call them -- acts of misadventure such as this. Certainly everyone appreciates the difficulties experienced and regrets very much the pain and suffering of these people.

On the other hand, here are doctors who have spent their entire lives doing first class work daily, taking under their responsibility human lives and in two of the most difficult and complex fields of surgical endeavour, highly respected flawless men in their work, and after all these years of dedication and practice a misadventure such as this embroils them in the kind of incident which has occurred.

And as the Member for St. John's touched on, and as the Member for Ethelbert Plains said, possibly one action such as extending limitations in this case might lead to precedents which would jeopardize the freedom of physicians to act in the future in cases of this kind and other cases. I can think of plating a femur and 20 years later living under the cloud of the screw coming loose there and a small abscess occurring and having a Statute of Limitations waived and my entire reputation and life's work left in ruins around my feet.

Waiving of a Statute of Limitations could open so many doors. I know I have enough confidence in the members of this committee in this House, Madam Speaker, to know that justice will prevail in this case, but I feel that, and I know that certainly where gross negligence was evident and has been or would be evident in the future, that in exceptional cases both the -- I'm sure the profession and I know this House -- would certainly give it their full consideration and possibly waive things in those instances and I think that would be just. After all that's what we're here for.

But I do ask the Honourable Members of the House to look and weigh this most carefully because of the impact that it could have on the medical practice in our province which I feel is second to no other jurisdiction in the North American Continent. We have to weigh this carefully. This I think seems to be one of those things which baffles the medical man and baffles the courts and I feel that the principle is so important in this case that I even doubt the wisdom of allowing this to go to committee.

In closing, Madam Speaker, I do want to say I think that the expressions of opinion here tonight have been very good, all presentations have been well done and I think that the Honourable Member from St. James will understand the reservations that I have expressed concerning this entire matter.

MADAM SPEAKER: The Honourable Member for St. James.

MR. STANES: Madam Speaker, if I may just say a word. . . .

MR. LYON: I would like to move, seconded by the Honourable Minister of Industry and Commerce, that the debate be adjourned.

Madam Speaker presented the motion and after a voice vote declared the motion carried.

MADAM SPEAKER: The adjourned debate on the second reading of Bill No. 81. The Honourable the Leader of the New Democratic Party.

MR. PAULLEY: Madam Speaker, I adjourned this bill the other day because there seemed to be some confusion evident as to the association of the bill, the name of the bill before us, namely that of Montreal Trust Mortgage Corporation and other loan companies bearing a similar name. Now my colleague from St. John's asked the sponsor of the bill to explain this and I'm sure that the honourable member who introduced this bill will be doing so.

Another reason that I adjourned the debate frankly was because of an interjection of the Honourable Minister of Public Utilities or the Provincial Secretary. I felt that he was attempting to chastise us on this side, and particularly myself because I deigned to oppose a bill for a loan company the type of which my honourable friend had said had been introduced into this House for 50 years. I want to assure my honourable friend that when I do adjourn bills of this nature, or take part in a debate on a bill of this nature, I do so because I'm firmly convinced that the proliferation of loan companies in the Province of Manitoba should cease.

I also wanted to take the opportunity of adjourning this bill, Madam Speaker, to give me an opportunity of looking at the bill that was introduced by the Provincial Secretary setting up a new companies act. We had been given to understand that this was going to be an all-embracing bill insofar as companies were concerned, and I wanted to make certain myself that loan companies are going to be covered. Now it seems strange as it has been pointed out in this House on a number of occasions, we in Manitoba the only Legislative Assembly that has to pass on loan

(Mr. Paulley, cont'd)...companies individually.

Now I'm not going to oppose this bill going any further into second reading. I think the point and the reasons that I adjourned the debate and speak on some loan bill or bills each session have been worthwhile, because each session, Madam Speaker, when I've taken the opportunity on a loan bill picked at random, following the announcement of it in the press, I receive a dozen or more letters from individuals, outlining how they have been inveigled into obtaining loans over their head. As I have pointed out in the past, I don't think anything is easier to obtain in the Province of Manitoba than a loan from a loan company. It is even easier to obtain a loan than to find bootleg rye in the Province of Manitoba. At one time, Madam Speaker, that was relatively easy to find. But notwithstanding this, it appears that this may be the last time that I do have an opportunity to speak on a loan bill because if the bill proposed by the Honourable the Provincial Secretary dealing with The Companies Act is adopted at the next session, then the onus will be on him in respect of the increasing number of loan companies and as to whether or not they will be allowed to be established.

Now, Madam Speaker, I want to take this opportunity, and I will have one other, I presume, when the bill on The Companies Act is before us, I want to give my honourable friend prior notice as Provincial Secretary that if his new bill is adopted by this Legislature, giving him the authority rather than this House, giving him the authority to set up loan companies, I will be asking by Order of Return each year that I'm in this House, how many dozens of loan companies he has permitted to become established. So I make no apologies, Madam Speaker, for adjourning the debate on Bill 81, and I don't know how my honourable friend the Member from Winnipeg Centre is going to operate in future years if the Honourable the Provincial Treasurer is going to take his job.

MADAM SPEAKER: Are you ready for the question?

MR. MOLGAT: Madam Speaker, I regret I was out of the House when a number of these bills of a similar type were passed through. I am not rising to object to the bill but only to find out what action the Provincial Government takes to check into the incorporation and the by-laws of these companies that are established outside of Manitoba and who apply for the right to operate in the Province of Manitoba, as this present act is doing, and I would like to know from the Minister responsible exactly what action the Manitoba Government takes to ascertain that the powers, the by-laws and the constitution of the companies from outside of the Province of Manitoba when they come in here are completely checked by the department to make sure that they are not beyond similar powers that we give Manitoba corporations.

MR. STEINKOPF: Madam Speaker, in reply, the powers that we grant are really a registration to do business in this province, and before the registration is granted, why the Provincial Secretary's office scrutinizes the original incorporation and the by-laws and the letters patent of the company, and ascertains that they are in order before permitting the registration which permits the company to carry on business in Manitoba. And then it must operate just the same as any other Manitoba company does after that.

MR. COWAN: Madam Speaker, I would just like to advise the Honourable Leader of the New Democratic Party that the Montreal Trust and Mortgage Corporation is a subsidiary of Montreal Trust Company, so Montreal Trust Company certainly have no objection to their name.

I think that the increase in the loan companies in this province certainly has resulted in reduction in interest rates in recent years, and I heard of only another company in the last week which now loans money on second mortgages at the rate of eight percent, nine percent and ten percent, which is certainly a lot better than was possible a few years ago, and it is due to the competition that there is here, and by having additional loan companies incorporated we have had the result of lowered interest rates on second mortgages and the people of Manitoba have benefitted accordingly. People, when they borrow money at different rates from different firms, and if people would only do that, ask in three places -- more places -- about rates of interest, and if they would, if they are still in doubt, if they would ask a lawyer or a banker, I am sure that they would be helped and that they would be able to save themselves money. If they are not satisfied with one they can ask a second one because these men are generally quite familiar with loans and rates of interest.

Madam Speaker put the question and after a voice vote declared the motion carried.

MR. JAMES COWAN, Q.C. (Winnipeg Centre) presented Bill No. 74, an Act to incorporate The Jewish Foundation of Manitoba, for second reading.

Madam Speaker, this bill is being presented by some 108 leaders in the Jewish Community to incorporate a Foundation along the same lines as the Winnipeg Foundation. The purpose of the Foundation will be to support charitable, educational and cultural activities, and at present many of the charities operate on a day-to-day basis and if this Foundation is established they will be able to establish a Foundation which will provide regular revenues so that throughout the years the various charities will be assured of regular monies being available to some extent for the support of the various charities and educational and cultural groups.

Madam Speaker put the question and after a voice vote declared the motion carried.

MR. LISSAMAN, on behalf of the Honourable Member for Morris, presented Bill No. 78, an Act to incorporate Riverview Golf & Country Club, for second reading.

Madam Speaker presented the motion and after a voice vote declared the motion carried.

MR. B. P. STRICKLAND (Hamiota) presented Bill No. 84, an Act to incorporate Hamiota Golf Club, for second reading.

Madam Speaker presented the motion and after a voice vote declared the motion carried.

MR. COWAN presented Bill No. 59, an Act to incorporate Investors Syndicate Limited, for second reading.

Madam Speaker presented the motion.

MR. COWAN: Madam Speaker, this bill and Bill No. 60 are complementary bills. The bills have been approved by the Chairman of the Public Utilities Board, have been gone over with him as well as with the Legislative Counsel. The reason this legislation is required is due to the ownership by Investors Syndicate of Canada Limited of two subsidiaries, The Western Savings and Loan Association and Investors Trust Company. Insofar as Manitoba is concerned no problem arises by reason of ownership of these two subsidiaries, but certain other provinces, including Ontario, require that any company that sells investment contracts must not own more than 36 percent of the shares of any other company. In order that Investors Syndicate can sell investment contracts in Ontario and in other provinces of Canada, it is necessary that this present bill be passed, and in this way they can set up a company which will not control any subsidiaries which will not have more than 36 percent of the stock of any subsidiaries. The net effect of the proposal is to create a new investment contract company which will become the issuer in all the provinces and it will qualify under all the provincial requirements. The new company will take over all the investment contracts of the old company and the reserves held for them. They will leave in the old company the shares in these two subsidiaries and the old company will no longer carry on the business of selling investment contracts.

The first bill deals with the new company and the second bill deals with the old company, and the amendments in the second bill are necessary because of the fact that this new company is being formed.

MR. CHERNIACK: I, for one, Madam Speaker, do not quite understand all the ramifications involved in carrying out these two Acts. I presume it all must be very interesting and probably has some relationship to combines or monopoly control or something whereby the Ontario government has evinced an interest in making sure that there is not a major control of the sale of these certificates. To the extent that these two bills might result in creating that type of competition which the honourable member referred to in relation to loan companies, it might be worthwhile, because he certainly feels that competition between various companies is good, and if this would create that then of course that's all to the good. I hope that when we deal with this in committee we'll learn more about the background and the need for doing this, but there is another principle, a thread running through these bills, on which I would like to question the honourable member.

It seems to me that this bill creates a vesting automatically, or a transfer or a sale from one company to another, and I am normally accustomed to seeing sales go through in a normal way by transfers, by assignments. In this bill we find that it's all being done ready manufactured, ready-made for this company, which I suppose is very handy and will probably save the company a great deal of money, and yet it seems to me to be consideration given to this or these companies which the average person does not have. There is a provision which appears

(Mr. Cherniack, cont'd.) to instruct the registry offices, the Land Titles office, to automatically accept these bills as indication that there have been transfers of title made and to that extent there seems to be special treatment being given to this company. In the normal course, when there is a transfer made of a security, there has to be an assignment drawn, it has to be registered and a fee paid; and again it appears to me in this case that the Land Titles office is losing some revenue, not that I'm too unhappy about the Land Titles office losing revenue, as a lawyer who adds to the revenue, but I marvel at the fact that the government which has seen fit to increase registration fees and Land Titles office fees in recent years, is apparently -- and we'll get clarification soon -- is apparently waiving the benefits of various fees which would otherwise normally be payable.

The Attorney-General shakes his head, so obviously there will be more clarification given to us than we have already received, and I'm looking forward to knowing more about it, but certainly I think that we are entitled to know to what extent these transfers are going to be automatic and to what extent there will be proper registration involved in connection with these.

MR. COWAN: Madam Speaker, the purpose of the Act is to enable this company to carry on business in Ontario and some other provinces. It doesn't contravene any Manitoba Act but it does contravene some of the other Acts and that is the purpose of it, and they're transferring investment contracts and the reserves to the contracts to the new company, and that is incidental to the purpose but we can certainly talk about what the Honourable Member for St. John's has brought up when it comes to Committee.

Madam Speaker put the question and after a voice vote declared the motion carried.

MR. COWAN presented Bill No. 60, an Act to amend an Act to incorporate Investors Syndicate of Canada, Limited, for second reading.

Madam Speaker presented the motion.

MR. HRYHORCZUK: Madam Speaker, it seems to me that this company has been in operation in Manitoba for some time. I was out of the House when the first bill was discussed and I wonder why the necessity of an Act at the present time.

MR. COWAN: The reason for this is because the new company is being established and as a consequence the investment contracts and the reserves for them are being taken out of this old company, which is being amended by this bill before the House right now. That's the purpose of the

MR. HRYHORCZUK: if I may, Madam Speaker, couldn't this have been done by way of supplementary letters, instead of through an Act?

MR. COWAN: No, it was incorporated by a statute and therefore when you want to change it you have to amend the statute.

MR. CHERNIACK: Madam Speaker, I have learned that one of the techniques that I could use at this stage is to move adjournment, but I don't propose to do it. I was tempted to do it, Madam Speaker, because I have now heard the honourable member who moved this motion repeat three times what the purpose was. I won't repeat it to make it a fourth time. I understand the purpose, and I understand also that apparently the present position is not in conflict with Manitoba law. I am disturbed by the fact that it appears to be in conflict with Ontario law and what is now being done is to permit it to conform to Ontario law, and the reason that I raised the question was: No. 1, I felt that if the Ontario law was more rigid than is our law then I would have hoped that I would have heard just to what extent it was justified to have to comply with Ontario requirements and make the changes here in order to permit a Manitoba company to do business in Ontario. Possibly the law ought to be changed in Manitoba if the Ontario rigidity or requirement is greater than ours.

I also asked a question relating to the handy way that is being provided for this company to transfer its assets, and I know that if any man wants to transfer his assets to his brother or to his wife, or if any person changes his name and wishes it registered in his new name, there is involved a certain amount of work and payment of fees to the Land Titles office. Now when I mentioned this before, I detected certain, I was going to say disagreeable nods of the head on the other side, but I don't mean disagreeable; I mean nods in disagreement on the other side as to my suggestion as to waiver of fees, but the honourable member did not respond to my question and I am hoping that we can get an answer from him now as to the Ontario requirements being apparently more demanding than are ours, and as to the handy way in which it is proposed

(Mr. Cherniack, cont'd.) . . . to comply with these companies' need to transfer assets and change registrations without going through what I understood to be a routine method of handling it through proper registrations and payment of fees.

MR. STEINKOPF: Mr. Chairman, the honourable member seems to presume that all the assets that are being transferred here are real property, and if there is any real estate involved, they'll still have to go through the normal course of having the title transferred in the Land Titles office. What has happened here is that the shares of a company -- I think the company's name is Western Savings and Loan -- have been purchased by Investors Syndicate, and because of some legal niceties in Ontario and other provinces, which appear when one operates out of Manitoba, this action has to be followed here. Now it may be good or it may be bad, depending on which province you are in or which you are working from, and this is one of the reasons why you have before you a new Companies Act which is as close to uniformity as there will be anywhere in Canada today and what has been recommended by the committee on uniform company legislation by the Canadian Bar Association committee on that; and another thing that will have to follow will be legislation on securities. You have an odd situation where every province has a different set of rules by which they play the game of issuing and selling securities, and sooner or later these will also have to be brought down on some uniform basis because there is no rhyme nor reason why the rule should be one way in Manitoba and another in Saskatchewan and another in Ontario. We find that in many cases our rules here are much too rigid; that for instance a company of this nature that has not been incorporated as a private bill or through the Legislature in some other province, or which has been incorporated by letters patent, cannot be registered in Manitoba, and we are having the reverse effect here, so this is a matter of uniform legislation and I think it's the only way that these two Acts can be handled or the matter can be adopted, and I fail to see where we are doing the Land Titles business office out of any business, and if we are, the Provincial Secretary's Department is going to gain a little bit by it.

MR. CHERNIACK: May I be permitted a question of the Honourable Minister? Madam Speaker, may I ask the Honourable Minister if in view of the fact that he stated that real property transfers or transfers in the Land Titles office would not require, or would rather -- he stated that they would require proper transfers and registration thereof, may I ask him whether he has read the penultimate section of the preceding Act which says that it shall not be necessary to file anything under the various Acts, Bills of Sale, Assignment of Book Debts, Real Property Act, Registry Act -- not even necessary to file this Act in order to carry out the effect of the transfer of title? Has he read that and does he justify the statement which he made?

MR. STEINKOPF: I was only saying that there would still have to be a transfer of title. The name will have to be transferred in the Land Titles office.

Madam Speaker put the question and after a voice vote declared the motion carried.

MADAM SPEAKER: The adjourned debate on the second reading of Bill No. 68. The Honourable the Member for Selkirk.

MR. HILLHOUSE: Madam, I could make the same excuse as has been made tonight by other members of the House as a reason for having adjourned this debate. I could have said that I did not hear the remarks passed by the Honourable Member for St. James when he introduced it, but I won't go to that extreme. The reason why I did adjourn the debate was because there was some doubt in the minds of certain municipal men in the Greater Winnipeg area as to what the effect of this bill would have upon the Metropolitan Act bill, but I have discussed this with them and they have instructed me to allow it to go to Committee and they will be appearing at the Committee to make their representations personally.

Madam Speaker put the question and after a voice vote declared the motion carried.

MR. EVANS: Madam Speaker, I wonder if you would now call the motion on the Committee of Ways and Means.

MADAM SPEAKER: The adjourned debate on the proposed motion of the Honourable the First Minister, and the proposed amendments of the Honourable the Leader of the Opposition, and the proposed amendment to the amendment by the Honourable the Member for Brokenhead. The Honourable the Member for Emerson.

MR. TANCHAK: Madam Speaker, I would like the indulgence of the House to have this matter stand.

MADAM SPEAKER: Agreed.

MR. EVANS: Madam Speaker, I wonder if you would call the adjourned debate on the proposed motion of the Honourable the Minister of Health on dental health policy.

MADAM SPEAKER: The adjourned debate on the proposed motion of the Honourable the Minister of Health. The Honourable the Member for Rhineland.

MR. FROESE: I would ask the indulgence of the House to have this matter stand.

MADAM SPEAKER: Agreed.

MR. EVANS: Madam Speaker, the adjourned debate on the motion by the Honourable the First Minister concerning shared services.

MADAM SPEAKER: The adjourned debate on the proposed resolution of the Honourable the First Minister. The Honourable the Member for St. George.

MR. GUTTORMSON: Madam Speaker, I adjourn the debate for the Honourable Member for Selkirk.

MR. T. P. HILLHOUSE, Q.C. (Selkirk): Madam Speaker, I oppose this resolution on two main grounds: 1. I do not believe that public funds should be used to support parochial schools created for the instilling of sectarian doctrine. 2. I believe that our public school has been and can be a mirror of the pluralistic society in which we live. Within the broad and community-wide framework which it provides we can overcome and go beyond the narrowness and limitations of our sectarian or ethnic groupings and provide conditions that will allow young lives to learn real tolerance, which is not the absence of conviction but proceeds from the conviction that truth needs no authoritarian shield or cloistered protection. In such a setting real liberal learning can take place -- learning that rests not only on the best use of the resources of our province in creating the finest possible academic training, but learning that is related to the understanding and application of the truth that God is the father of all men, and that all are brethren in one family. In short, Madam, I am not anti-anything but simply pro-public school.

The issue, Madam, is two-fold: 1. Shall state funds be used to support parochial schools created for the instilling of sectarian doctrine? and 2. Shall state funds be used either directly or indirectly to cause the fragmentation of our public schools, which in my opinion is the only guarantee which any child has of equal educational opportunity, an education which is liberal in scope, not confounded by dogma, and having as its main objective truth.

I feel that this resolution is another attempt of this government to escape the responsibility of making a decision on another controversial issue, and on this ground alone it should be defeated. It should also be defeated on any one of the following grounds, mainly: 1. If this government is sincere in attempting to introduce a system of shared services, it possesses the necessary power so to do without this resolution. 2. That the problems involved in introducing such a system are purely administrative and could best be solved by reference to the Department of Education. 3. The introduction of such a plan would result in chaos and would have a very detrimental effect on our public school system. 4. Such a plan would be the thin edge of the wedge, the insertion of which the First Minister wishes to avoid. 5. Such a plan would result in an increase in the number of parochial or private schools and to that extent would be an indirect use of public funds for the instilling of sectarian doctrine. 6. Such a scheme would result in segregation in our public schools. And 7. Such a scheme would be divisive in its effect.

Madam, I don't see how anyone supporting parochial schools can vote for this resolution by reason of the principles upon which the matters are to be determined within the limitations of this resolution. Nor can I see how anyone who supports our public school system as it exists today can vote for it. And for these reasons, Madam, I wish to state most emphatically that I am opposed to this resolution and that I intend to vote against it.

MADAM SPEAKER: Are you ready for the question?

MR. LISSAMAN: Madam Speaker, I think I would like to add a word to this before it goes to a vote. Like the Member for Seven Oaks I attach the greatest value and importance to the public school system in this province, and it is my opinion that while certainly no one could object to a committee of this type which will hear evidence from the citizens of Manitoba as to their wishes, that I think all of us, when that committee reports, will be presented with a decision which will test one's conscience to the limit. As we have heard both sides of the story,

(Mr. Lissaman, cont'd.) . . . and I suggest too, to this Legislature, both the extreme sides of this House, it is apparent that the purpose, or at least the people to whom this resolution is aimed to be of the greatest assistance have publicly stated that this is not of assistance to them, and even suggestions that they may refuse it. So then it becomes a question of what the true value may be found to be. And while certainly I will be voting for the committee to be set up, I would like this House to not construe this either as a vote for or against the final legislation which may be brought in as a result of that committee, Madam Speaker.

MR. M. E. MCKELLAR (Souris-Lansdowne): Madam Speaker, I beg to move, seconded by the Honourable Member for Hamiota, that the debate be adjourned.

Madam Speaker presented the motion and after a voice vote declared the motion carried.

MR. EVANS: Madam Speaker; I wonder if you would call the adjourned debate on Bill No. 50.

MADAM SPEAKER: The adjourned debate on the second reading of Bill No. 50. The Honourable the Member for Rhineland.

MR. FROESE: Madam Speaker, I have read the bill through and have discussed it with other members and also with people who I associate with, and I, for one, am opposed to the bill in principle. I also agree with the Member for Wellington when he spoke in the House the other day, and I think he had it very well put when he said that the Lord's Day was instituted by divine decree and that our scriptures instruct us in what manner it should be observed, so that I feel that as members here I don't think we have a mandate to change this. I feel that we should have an over-all referendum first before we make any exceptions to The Lord's Day Act. I consider this as a piecemeal way of breaking away the foundations of society. While on the surface this may look rather innocent, I think it will have far-reaching effects and no doubt will lead to further changes once the principle of local option is adopted as it is presented in this bill. It will require more people to work on Sundays in order to provide for the entertainment that is sought, and no doubt in the long run it will have an effect on church attendance as well. My people, the people I represent, the majority of them definitely would oppose this bill to pass, and likewise they would oppose it in principle.

Now on second reading we are mostly to discuss the bill in principle. However, in Section 15 I find that wherever this bill is adopted by local option that they will have to stick with it for three years before it can be repealed. This seems rather strange to me, and I for one feel that this is rather unfair because if people should find that it's disrupting in their community, or that they would rather see a difference, that they should have to wait three years before it can be repealed. I think this should be changed.

Then also I feel that the people in the City of Winnipeg, the city is receiving special privileges as offered in this bill because of the previous vote on the matter which is supposed to apply. This we find in Section 15 of this particular bill. So, Madam Speaker, I oppose the bill in principle and will do so on second reading.

MADAM SPEAKER: Are you ready for the question?

HON. ROBERT G. SMELLIE, Q.C. (Minister of Municipal Affairs) (Birtle-Russell): Madam Speaker, I would adjourn the debate if no other honourable member wishes to speak.

MADAM SPEAKER: The Honourable Member for Assiniboia.

MR. PATRICK: Madam Speaker, I'd like to move, seconded by the Honourable Member for Portage, that the debate be adjourned.

Madam Speaker presented the motion and after a voice vote declared the motion carried.

MR. EVANS: Madam Speaker, Bill No. 76.

MADAM SPEAKER: The adjourned debate on the second reading of Bill No. 76. The Honourable the Leader of the New Democratic Party.

MR. PAULLEY: Madam Speaker, may I have this matter stand?

MADAM SPEAKER: Agreed.

MR. EVANS: Madam Speaker, the motion of Supply.

Madam Speaker, I beg to move, seconded by the Honourable the Minister of Health, that Madam Speaker do now leave the Chair and the House resolve itself into a committee to consider of the Supply to be granted to Her Majesty.

Madam Speaker presented the motion and after a voice vote declared the motion carried and the House resolved itself into a Committee with the Honourable Member for St. Matthews in the Chair.

MR. CHAIRMAN: Department VIII, Item 2 Health Services.

MR. PETERS: Mr. Chairman, I think before we go any further there are a few questions that I asked the Minister a few days ago that he said he was going to try and get the answers for and we haven't got them yet, or I haven't heard them anyway, and the one was, did nurses in training have to pay for any equipment that they broke, and the other question was what was going to happen with the old Grace Hospital. Was the Hospital Commission going to take it over or what were they going to do with the facilities there?

HON. CHARLES H. WITNEY (Minister of Health) (Flin Flon): Mr. Chairman, the answer to the question, were the nurses charged for items they broke, the answer to that is no. And with respect to the Grace Hospital -- I gather that's the Arlington Street Hospital of the Salvation Army -- negotiations are being conducted with the Manitoba Hospital Commission on that building at the present time, but I cannot give any further answer except that they are negotiating on it.

MR. SHOEMAKER: Mr. Chairman, you will recall that last evening I asked three or four questions and I think the Honourable Minister was going to supply them tonight.

MR. WITNEY: The honourable member asked for the waiting list at Portage. There are at the present time 420 on the waiting list, or as being certified for attendance at Portage; 223 are female, 197 are male; and of the total 79 are being supported financially at home or at foster homes. The numbers of 420, I understand, are no greater or no less than they have been in past years.

He also asked me the question of the number of psychiatrists that we have. We have 48 established positions for medical officers and of these 35 are certified psychiatrists and the rest we have licensed medical officers who do not have psychiatric experience.

The question with respect to the numbers of doctors and psychiatrists that are leaving the country, I was not able to obtain that particular information in the short period of time that I've had at my disposal since last night for that type of information.

The Honourable the Leader of the NDP asked about the grant in the Child Guidance Clinic. Whereas last year it was shown as \$57,000, this year it is shown at 35,000. We pay for 21 people at the Child Guidance Clinic in Greater Winnipeg and the health grants from Ottawa pay the major portion of the cost of the salaries for these 21 people and we pay the remainder. Last year it only cost the province, rather than \$57,000 it cost us only \$28,000 because we obtained more grants than we anticipated we would get, and this year we are budgeting for a bit more than the \$28,000.00.

I would just like to clarify questions to the Honourable Member for Rhineland who asked about the mental health grants. They are for employment of additional staff and purchases of equipment and supplies for the Psychiatric Institute, the Manitoba School for Mentally Defective Persons, the Child Guidance Clinic, Brandon Hospital, Selkirk Hospital and the Psychiatric Out-Patients Department of St. Boniface Hospital, Children's Hospital, General Hospital, and also to assist in the post-graduate training of psychiatrists through the payment of honorariums, the training of psychologists and psychiatric social workers and some projects in the field of mental health research.

MR. SHOEMAKER: Mr. Chairman, you will recall I told my honourable friend the number of physicians and surgeons that were leaving Canada. That isn't the question I asked. The question I asked was the number that are graduating. Then I can do a little subtracting and I'll get the answer. If I could have the number that are graduating annually in Canada, physicians and surgeons.

MR. WITNEY: Mr. Chairman, I will endeavour to get the information for the honourable member that I gather -- is he speaking of the whole of Canada or just in Manitoba?

MR. SHOEMAKER: The figures that I had here referred to Canada -- 400 and -- physicians

(Mr. Shoemaker cont'd) and surgeons leaving for the U.S. last year totalled 467, so if we could have the number that graduated for the same period then we would know the percentage we were losing.

MR. WITNEY: That will require a fair amount of work to get the information from the various universities but we will endeavour to do that.

MR. GRAY: Mr. Chairman, the DP doctors that came in here in the last five or ten years, and I understand most of them were engaged in the mental hospitals. Have they now accomplished the full rights and privileges of practising in this province?

MR. WITNEY: Mr. Chairman, psychiatric doctors that are employed by the mental health institutions in this province have to pass the examinations of the Royal College of Physicians and Surgeons of Canada and when they do that they are accorded all the rights and privileges of all other doctors that we have in this country.

MR. PETERS: Are we off of psychiatry or are we on to health services now?

MR. CHAIRMAN: (1) Administration.

MR. PETERS: Did you have a question on psychiatrists? Because I'm on to Health Services.

MR. CHAIRMAN: We're on the Health Services now, Administration.

MR. SHOEMAKER: Well, this certainly should be in order then. Is this the only book that was put out by my honourable friend last year? Is this the only one? We used to have quite a thick volume of the report of the department.

MR. WITNEY: The thick volume is in the printer's at the present time, and as was last year, will be distributed to the members.

MR. SHOEMAKER: really the only one that we have.

MR. WITNEY: That's the only one that you have, Mr. Chairman.

MR. PETERS: I don't know if this is the section that I should discuss this under. I think probably I should have discussed it under the Minister's salary, and this is dealing with, and I'm bringing this to the attention of the Minister. He can't give me any answers, I just want to bring it to his attention so he can deal with it. There is a problem cropping up now where -- I don't say there are too many -- but there are a few doctors that are now refusing payment for services from an insurance company. That is, if you are covered, your medical is covered by a private insurance company, they refuse the payment from the insurance company. They send the cheque back and say that the patient is responsible for the payment and then the insurance company sends you the cheque and says you will have to make the full payment, and I find out that in most cases it's just a matter of the doctor wanting \$9.00 and the insurance company sending a cheque for \$8.05 and the doctor doesn't want to bill you for the extra 95 cents or \$1.00 or whatever it is. Now, Mr. Chairman, I want to point out to the Minister that I don't think that an insurance company has the right to tell a doctor what he should charge, but I think that the doctor should accept the payment that is offered him by the insurance company, then bill the patient for any extra amount that he feels is needed. That is one thing that I'd like to bring to his attention.

Another thing I would like to bring to his attention: There are many of these smaller companies, and I'm not blaming the companies. It's the salesmen that they have. I don't know how it happens but it almost in every case involves widows. I don't know if they read the obituary columns in the papers and then go and call on them and tell them that "we can offer you the same service as you can get from the MMS but at about half the cost," and when they come to need this service they find out that they are not covered at all; that there is a deductible clause in it; they find all kinds of excuses, and then they finally phone somebody to try and assist them in getting their claims paid and all of a sudden the agent isn't working for the company any more, or he disappears.

I think this is a problem, Mr. Chairman, that has to be looked into and looked into very seriously, because this is where people or unscrupulous salesmen are plying on people that are very prone to be taken advantage of, and they feel that somebody is trying to help them out, and really they are not trying to help them out -- they are just trying to gain a customer and get a premium so that they can collect their commission on this policy. And I would urge the Minister to take a very serious look at this.

MR. WITNEY: Yes, Mr. Chairman, I will.

MR. MOLGAT: Mr. Chairman, I wonder if we can get a statement from the Minister with

(Mr. Molgat cont'd) regard to his policy on the matter of drug costs because his predecessor had some very definite statements to make on this matter, and I'm quoting from the Free Press of the 13 of August, '63. The headline, a very large one, was "Humanity Outweights Plumbers in Price of Drugs - Johnson. Health Minister says Manitoba Government is duty-bound to ensure reasonable costs." Duty-bound to ensure reasonable costs. This is an obligation he puts on the Manitoba Government." The Provincial Government has no wish to control the pharmaceutical profession but the government has a duty to taxpayers to ensure drugs are obtainable at reasonable costs, Manitoba's Health Minister, George Johnson, said Monday."

My question, Mr. Chairman, is, what action has the Manitoba Government taken so far and what action does it propose to take to put into effect this policy statement by the previous Minister of Health?

MR. WITNEY: Mr. Chairman, the matter of drug costs I believe was referred to the Royal Commission, and the Manitoba Government at that time made a statement. The policy is there and I will just carry out the policy.

MR. MOLGAT: Mr. Chairman, that doesn't really answer my question because this statement by the Minister -- this isn't so very long ago; this is after all in August of '63 -- was not a statement that he was going to refer the matter to any commission or anything. This was a bald, straightforward statement. The Provincial Government has a duty to taxpayers to ensure drugs are obtainable at reasonable cost, and this is a duty that he imposed upon his government, the Government of Manitoba, not on anyone else. My question, Mr. Chairman, is, what is the policy of the government in this regard? If the Minister says that this is a duty of the Provincial Government, then I want to know what is the policy and what action are they taking. Now if they have no policy then they should tell us, and if they are not taking any action they should tell us. But then they shouldn't go around making statements of this nature. One or the other.

MR. WITNEY: Mr. Chairman, the matter of drug costs is one which the Department of Health has had under review under the former Minister, and it is of interest to the Department of Health under the present Minister. And I can only assure the Honourable the Leader of the Opposition that the matter of drug costs will continue to be a concern of the Department of Health, and we will continue to consider it at all times. We have made references to this when we were at the Advisory Committee on Hospital Costs, and have recently had some meetings with the Pharmaceutical Association about the matter of drug costs.

MR. CHAIRMAN: (1) passed.

MR. SHOEMAKER: Mr. Chairman, on this same subject, this is a rather important subject. Now we have an Order for Return here and I don't know whether the answer has come in yet, as to the cost of medicare; that is, the cost -- the medicare cards provide, as you know Mr. Chairman, the four services: prescribed drugs, doctors' bills, dental and medical is it? The four anyway. Now, this government and the people of this province must be paying millions of dollars annually for prescribed drugs for holders of medicare cards. I don't know how many thousands of people in the province now hold medicare cards but there must be thousands of them, and I wouldn't be surprised that we are paying out millions of dollars for prescribed drugs. Has this government no policy in regard to the amount that they pay for these various prescribed drugs? Surely they don't pay one price to one druggist and one price to another one. There must be a schedule that every druggist in the Province of Manitoba stating that this is what the government will pay for the various prescribed drugs. Mr. Chairman, it was just the other day over in Law Amendments that we kicked out once or twice this Pharmaceutical Bill with all the various schedules on it. There must be a similar one in regard to medicare, setting out the price that the government are prepared to pay. I think we should have an answer on this one.

MR. WITNEY: Mr. Chairman, the drugs that are purchased by the Manitoba Hospital Commission are purchased from the Federal Government who purchase drugs in bulk, and so the drugs that are obtained in the hospitals and also through the department itself, are obtained at a very reasonable cost. With respect to the drugs that are obtained on medicare, I am not sure of the exact formula that they have adopted because those are paid by the Department of Welfare, but there have been meetings recently with the, as I've mentioned to the Honourable Leader of the Opposition, with the Pharmaceutical Association about this very problem, and I

(Mr. Whitney cont'd) think that the honourable member could pursue the question further with the Department of Welfare.

MR. CHERNIACK: Mr. Chairman, I do not propose to demand from the Honourable Minister further statements in regard to this problem of the cost of drugs. I realize that the cost of drugs is one of the large uncontrollable items which a sick person has to face. We now have a system of hospital care. We have an attempt at a system of financial aid for medical care, and I am certain that it won't be long before we have a national, or rather I should say if not national, more likely a provincial system of medical care provided to all on a comprehensive basis, but the two problems which have not been faced up with properly in regard to the high cost of sickness is the inability to earn whilst being sick, that is financial support for the people who are incapacitated because of illness, and more important than that the question of drugs.

Now I don't think we have a right to demand that the Minister produce a solution, because few administrations have been able to bring a solution on the problem of the high cost of drugs, but a step has been taken by the Hospital Commission in recent years and that was the insistence on buying in bulk on tender for hospital use, and I think based on generic name prescriptions. This is enforceable in a hospital, I presume, where a doctor is told, "We have the following drugs in stock; you shall prescribe from our stock." This is not an easy solution for the general public outside of hospitals, and I think what we should demand from the Minister and have a right to expect from his department, is a dedication to a constant supervision or surveillance over the problem of the high cost of drugs. Now it's not a local problem; it's not a provincial problem; and I doubt if it really can be solved on a national basis. It probably has to do with the market and the manufacturing processes in United States as much as in Canada, but I am convinced that the high cost of drugs is one which can be brought down appreciably because the drug houses -- I mean the drug manufacturing houses -- show a very high percentage of profits, both on their turnover and on their capital investment basis, and I have no doubt that they have not yet been forced by the pharmaceutical or medical professions or the various health bodies such as governmental ones, to come down to a realistic figure for the cost of drugs to the consumer, so that I feel that it is only by pressures brought to bear on government and by government on other government, and by all governments together on the manufacturers, the producers and the distributors of drugs, to see to it that the cost of drugs will come down. It is high time that we recognize that the laissez faire system will not apply in matters of health and they will not apply in matters of the cost of drugs, and you can speak all you like about free enterprise and fair competition. It does not apply in the case of health nor in the case of the cost of drugs. I think that has been proven. I do not believe that you will get a voluntary reduction of the price of drugs nor will one be forced other than by the major purchasers, and the major purchasers are becoming more and more the governmental agencies, so that I feel, Mr. Chairman, that we in this House must constantly press the Department of Health and not let him pass us off to the Department of Welfare because I think the Department of Health is more reasonably the one which has to do and is saddled with the responsibility of concern of the cost of health measures, such as drugs.

We in this Legislature, I believe, must put constant pressure on the Minister of Health and his department and I think he has to accept the pressure and the responsibility of doing something positive in terms of prodding others to have a concerted reading of minds and concerted action with the dealings in this respect, and I mean involving other governmental agencies, other provincial departments and the federal department to work together with the pharmaceutical and the medical profession; and having said that, I must say that I realize that the Minister is new to this problem and new to the work, but I hope he is not just passing off the problem by saying it is a constant problem which is constantly before his department. I think it is one which requires special attention and I look forward to hearing from him from time to time in regard to the attention they are paying to it and the results which they are achieving.

MR. HRYHORCZUK: The Honourable Member from St. John's doesn't very often miss a point, but he certainly has missed it here. He excuses the Minister from giving the Honourable the Leader of the Opposition an answer to his question. Well the question simply was, the statement which appeared in the Free Press of August 13, 1963. The statement reads that "Humanity Outweighs Commerce in the Price of Drugs - Johnson, Health Minister says

(Mr. Hryhorczuk cont'd) Manitoba Government duty-bound to ensure reasonable cost." Well Mr. Chairman, this government has been getting away, if I may use the word, will murder in the past four or five years by coming out with statements similar to this one, getting good press coverage, getting big headlines in the newspapers such as this one is, leaving the impression with the public that it is really doing something; and this isn't the first time this has appeared. We've seen the same trick pulled on the public in the Highways Department, in most departments of the government, and this is just another one of those means of leading the public to believe that the government is really doing something, and when the Honourable Leader of the Opposition gets up and asks a question as to what is the policy, well the public in the Province of Manitoba have been led to believe that there is a policy. The people in the Province of Manitoba have been led to believe that they can expect their drugs to be purchased by them at a reasonable price, and who gave them this impression? The former Minister of Health. And this isn't the first time, Mr. Chairman, that this has happened. This is a practice that has been followed I can say religiously by that government, if you recall that a religion, and certainly it's about time that they were brought up pretty sharply so that the public realizes that they can't take for granted anything that the Ministers of the Crown of this government have to say, and if the Ministers of the Crown feel that this is an unjust criticism, they may have an opportunity to prove it right here.

Here is a chance to prove it. What is being done to carry out that promise made by the former Minister of Health to the people of the Province of Manitoba? That is the question we want answered.

MR. JOHNSON: Mr. Chairman, I'll be only too happy to pass to the Honourable Member from Ethelbert-Plains and the members a copy of the address given on that occasion to the Canadian Pharmaceutical Association who had their meeting here that year, in which I reviewed some of the problems as we see them from the standpoint in Manitoba and the responsibility which I felt the drug industry and the pharmaceutical industry had, in addition to government, in keeping the cost of drugs within reach of the ability of the people to pay. I'd be glad to send that to him. But my honourable friend is a little sensitive, from Ethelbert Plains, I know what he thinks of the part of the country I come from, Mr. Chairman, and he has reiterated that with respect to things, that we're the great advertisers and so on, I think that I made a conscientious address on that occasion and I think when he reads it that there was nothing of the sensational in it. It was an honest attempt to appraise the problem as we see it. For his information, I would say that quite in concert with not only I think drugs, the drug situation is even a more challenging and difficult thing for a local provincial government to resolve than even a medical care problem in that the cost of drugs is a matter of national concern. And the hundreds of drugs that come on the market yearly have placed a tremendous challenge as we reviewed last year with the Food and Drug people and so on, and we have been trying to do what we can as a government to control the cost of drugs. For example, under the medicare program we entered into a partnership with the pharmaceutical profession with a discount plus a dispensing fee, wherein we were trying to gain some much needed experience in the field of drugs and have reviewed the drug program under that program, or the drug costs and the practice of prescribing with the medical profession on numerous occasions. They have endorsed the concept and advised their membership, for example, that there are certain controls that the professional person prescribing must follow in order to keep the cost of drugs down, I have spoken to the pharmaceutical profession re the possibility of them individually and drug stores and so on doing group purchasing and following certain generic names, and this is a complex problem; and within the hospital scheme a full-time drug consultant to the Hospital Commission reviewing with the hospitals the dispensing drug and drug costs practices and so on; within the Mental Health Division in the mental hospitals and group tendering and these other practices that have been related to the House from time to time. A submission to the Royal Commission on restrictive trade practices, as the honourable member will recall, wherein we presented the very same picture to them that we thought just as important almost as medical care and costs to the individual patient and sickness, was the problem of drugs. We made some recommendations to them. In addition to that at the time of making our submission to the Royal Commission on Health, we reviewed and mentioned the restrictive trade practices brief of ours to them and we were quite disturbed, as I recall, at that time, whereas the drug industry had

(Mr. Johnson cont'd) . . . claimed a very large percentage of their monies was spent on research, I think that commission reported approximately five percent. We called for the formation of a national drug board at the federal level, not only to give more scrutiny to the efficacy of drugs but to try and control the multiplicity of similar drugs coming out under different trade names and to try and control the volume within the country. In the department one of the officials saw the Norwegian system and examined it as to what we may gain from it and apply in the Province of Manitoba. We reported on that to this House. And certainly I think everyone in this House in the matter of sickness and with respect to the cost of drugs feels the same way and shares the same sentiments as we do in this regard -- the high cost of sickness and drugs.

But I do think that to charge the Minister with sensationalism on this particular occasion was not my doing. I think I'd be happy to show the honourable member the speech which was delivered on that occasion. I think we did make the point in an appeal to the Canadian Pharmaceutical Association assembled here as to the joint responsibility all of us had in the health field to place the patient ahead of practices that may tend to creep into the drug industry. And I think that the drug industry should not on the other hand be prejudged in view of the experience to date. The practice of medicine is both an art and a science. It is very difficult, for example, for a -- while in veterinary use you can put a slip of paper in a bottle and say, "Give X number of units of penicillin" for a boil on the leg of an animal. This is a matter of individual judgment with a physician, the amount he uses and so on. We want to be sure I think in our representations to the federal authorities -- and I think the Member from St. John's has touched on this -- that there is no monopoly, if you want to call it that, within the drug industry; that there is more scrutiny at the national level. And constantly in our meetings, both with the Advisory Hospital Commission -- the hospital commissions across Canada meet in Ottawa -- and again in our meetings with our own professional groups, we are constantly bringing before them the experience we are gaining provincially and the experience through the Hospital Plan, which has been considerable, and with the new method of tendering drugs to our mental hospitals, where, as honourable members know, the cost has just spiralled with the use of these newer, more exotic drugs, or sophisticated drugs, and trying to find our way.

I think this is really basically a national problem as to the control of the efficacy and of the research in that regard, and with the Food and Drug Administration, and as to the numbers of similar drugs coming flooded on the market at that level. I think our job provincially is trying to work with our local people, with the drug industry locally here, to take those measures that will bring the greatest benefit to our people. We, as you recall, pointed out to the Royal Commission on Health in that brief the tremendous variation between the cost of drugs in institutions versus the drug cost at the retail drug store. I think in general it showed that the average retail druggist had to stock such a tremendous -- carry such a very heavy and large scope of stock in order to meet the needs of the customer that really it called for a coming together of the people who were doing the prescribing and the people who were buying the drugs.

Now these measures have been taken and are going forward. I think the department, as the Minister says, is ever-mindful of this pressing problem, and I would sincerely hope that the representations made across Canada to the Royal Commission on Health would indicate how much and how far the federal authorities would be willing to go now that they have the experience of the Restrictive Drug Practices, or Trade Practices Commission Study before them, and the expression of opinion by the pharmaceutical, medical profession and drug industry during this preparation of the Royal Commission on Health. I think when that's received it'll give, possibly give some guidelines for further effort. This is a complex problem and I do think that every member of this House agrees that humanity should come before anything else in determining drug policy.

MR. HRYHORCZUK: Mr. Chairman, I agree with the Honourable Minister; this is a complex problem; that it is not an easy problem. I agree with him that he did make presentations; that he wasn't asleep at the switch when he was the Minister of Health. That is not what I am criticizing. Had the newspaper account carried that type of an announcement he wouldn't have heard from this side of the House. That isn't what we're criticizing here. And either this was a press release, or the press quoted the Minister without the right to quote, because this is a quotation, and that is what we are complaining about, Mr. Chairman. We're not complaining about what you have done, or what you have not done. We're in full agreement that you have

(Mr. Hryhorczuk cont'd) taken certain steps to see what you could do about controlling the price of drugs. But that isn't what this headline reads, and what we are criticizing the government for is taking credit for something that they did not do and, according to the statement of the Minister right now, had no intention of doing. That is what we're criticizing about. And if this was a first instance it could be excused, but it isn't. It's a practice. I want to say again that we are not criticizing the Minister for having done nothing in this regard. I think what he has told us today is interesting, work that he has done. I think that it was necessary. The problem is complex. But when you come to make a press release, then at least stay within the bounds of the facts. Don't come out with a glaring outline like that and tell the people of the Province of Manitoba that you're going to do something when you are not doing it and you have no intention of doing it. That is the point we're raising.

MR. SHOEMAKER: Mr. Chairman, the Throne Speech refers to the Elderly and Infirm Persons Housing Act that will be introduced -- I asked that last night, I didn't get an answer as to whether that had been done yet.

And then on the next page of the Throne Speech there's the paragraph there that states "my Ministers will recommend the provision of funds for a further expansion of health units and lab and X-ray facilities to provide coverage for an additional 40,000 persons in the province." Has there been an announcement in the House on that subject matter at this session of the Legislature?

MR. WITNEY: Mr. Chairman, the legislation that the honourable member refers to will be brought into the House by the Minister of Welfare before the Legislature rises. And with respect to the extension of the health units: Yes, the health units are going to be extended into the south-west corner of the province and we estimate that we will be able to cover an extra some 40,000 people.

I think if the honourable member realizes, we extended some of the health units last year during 1963. The Neepawa Health Unit was one; Portage la Prairie was another; and the Birtle-Shoal Lake Health Unit was another, and now the extension will take place into the south-west corner. The exact boundaries of that health unit are not yet known because we have yet to conduct our negotiations with the municipalities who under the legislation are required to put up one-third of the money.

MR. SHOEMAKER: the subject matter the very meagre report that we have before us on Page 44 states that there still seems to be 19 percent of the population without full time local health service in the province. Now this, I suppose, was before the 40,000 envisaged residents will be taken in under the Minister's wing, so that will leave then 132,000 rural residents who are still without this local health service.

My question, Mr. Chairman, that I would like to ask, supposing that I lived in an area that is not covered by a local health service, could I go to another area and receive my X-rays at \$1.25 apiece, as I think the case is if you're living in an area? Isn't it a fact that you pay \$1.25 for the first one and two bits for every one thereafter, or something like that in Neepawa?

Now, Mr. Chairman, it seems to me that there still is something missing in this program. I know for a fact, and personally, because I had to pay about \$30.00 for a couple of X-rays for my wife the other day and although we live in a local health unit area at Neepawa -- and we are very fortunate -- still when I come to Winnipeg and go through the Manitoba Clinic or Winnipeg Clinic, I believe it is a fact that I have to pay \$15.00 or \$20.00 for the same X-ray that I could get in Neepawa for \$1.00 or \$1.25. I suggest that surely it's -- well, whereas it is presently possible for me to come into a Winnipeg hospital or any other hospital in Canada as far as that goes, or the United States, under the Plan, under the Manitoba Hospital Plan -- I would like to see some provision made for me as a resident in Neepawa to have these X-ray services made available to me in Winnipeg at the same price that I pay for them in Neepawa, because this certainly works a hardship on a lot of people.

MR. WITNEY: Mr. Chairman, there is a section of the province still to be covered with health units. I think in answer to the honourable member's question that the services apply only to those people who are in the local health units and whose municipalities are paying one-third of the cost; in the remainder of the province with respect to the particular question that he asked, I think there is some provision made for them and I will have to find out for sure for him

MR. SHOEMAKER: It speaks in the report as if the residents of Winnipeg have a special deal of some kind. How does it differ to the rural areas? Page 44 of Health Terms of the review that is before us.

MR. WITNEY: A grant was made to the City of Winnipeg in lieu of the establishment of a health unit. It's an annual grant made by the department.

MR. CHAIRMAN: (1) passed (2) passed. . . .

MR. SHOEMAKER: Mr. Chairman, in the Environmental Sanitation, does that have to do with the inspection of food, meat and so on -- where is my honourable friend from Elmwood, he'll probably have something to say on this -- but I was thinking in particular of the cream that had traces of aldrin and dieldrin found in so many samples taken last year. You will recall, Mr. Chairman, that the Minister of Agriculture and I got into a little discussion on this subject matter, and I believe that he asked me to bring it up at this juncture. He seemed to want to evade it anyway in his department and I suppose that naturally it would come under this department.

Now I made the statement, Mr. Chairman, that I had attended two court cases in Gladstone where farmers were brought into court for having sold cream with traces of dieldrin in it. I also made the statement that the inspector on the day that he took the samples in Gladstone, took ten cans of cream at random off a cream truck and six of them had traces of dieldrin in them that were considered -- well, to the degree that they were considered unfit for human consumption, and I believe they confiscated the butter and all. I made the statement too, Mr. Chairman, that the inference was that 60 percent of all the cream that was sold that day had traces of dieldrin in it. And I believe that somebody over there shook their head in the negative and said, or indicated that that was not so at all. But the fact that these farmers were taken into court, whether it was by this government or by the federal government, then it must be considered a serious offence. I haven't heard whether the cases were all dismissed, or what eventually became of the various cases. I personally don't know of a farmer that paid a fine but surely my honourable friend will have something to report on this subject matter because if it is a fact that there is so much of the cream in the province that has traces of dieldrin in it, then we are entitled to know what the condition is at the present time.

MR. WITNEY: The condition at the present time, Mr. Chairman, to my understanding is that there is no difficulty in this matter at all now. As the honourable member will realize the Department of Agriculture took certain action with respect to dieldrin because of the dangers that were involved, particularly where it was used for cattle or in connection with dairy purposes, and the various prosecutions that he refers to I think were taken by the Federal Government under The Food and Drug Act. But in the annual report of the department, no reference has been made on any problems arising from dieldrin now since dieldrin has had control through The Pesticides Control Act.

MR. SHOEMAKER: Well, I was just wondering, Mr. Chairman, then how did they dispose of the several thousand pounds of butter that was temporarily confiscated at Gladstone and Glenella, I believe? There was large quantities of butter that were confiscated until some decision had been made because apparently there were quite high quantities of dieldrin in it.

MR. WITNEY: Well, the confiscation, Mr. Chairman, would be taken by the Federal Government under The Food and Drug Legislation and their inspectors would certainly thoroughly inspect the product before it was released, and I would assume that if it was still contaminated to a point that they felt that it was not safe for the public that the butter would have been destroyed.

MR. PETERS: Mr. Chairman, I believe this is where the Minister said he was going to make a statement on the inspections of plants that are not covered under Canada Approved Inspection.

MR. WITNEY: Mr. Chairman, regular inspections have been carried out on the plants by the City of Winnipeg Health Department and by the health units within the metropolitan area and I am advised that on the inspections that have been made that these plants have lived up to the public health regulations.

I am further advised that most of the municipalities in the general area now have passed by-laws which are similar to the City of Winnipeg by-law and he may be interested in that by-law, it states that "No person shall sell within the City of Winnipeg any meat which has not been

(Mr. Witney cont'd) obtained from an establishment registered under The Meat Inspection Act of Canada; and b) That no operator or a retail or wholesale meat outlet, or meat processing plant that is selling meat within the City of Winnipeg, shall have on the premises of any such outlet, or plant any meat not obtained from an establishment registered under the said Act. " And the medical directors of health in the various health units report that the various plants that have been inspected by their staff are living up to the health regulations; and the City of Winnipeg have advised that the inspections of the establishments in their area have been carried out by the Director of Health for the City of Winnipeg and by a trained meat inspector, and they are satisfied that the City of Winnipeg by-law is being enforced, and that Winnipeg has a good a meat inspection service as any comparable Canadian city.

In view of the statements that have been made by the honourable member heard during the debate on the Minister's salary, I requested that the department make sure that these various processing plants were living up to the regulations that we have in effect at the present time.

MR. PETERS: Mr. Chairman, I said on the Minister's salary, and I say it again, that most of the meat that is being used in these processing plants is Canada Approved meat. But I am told, and I have reason to believe, that many of these meat processing plants are receiving meat in off hours, after hours, that is not Canada Approved meat. I have been given this information, Mr. Chairman, and that is why I say it is not quite good enough because three years ago when I brought in this resolution saying that all meat, or slaughter-houses and meat processing plants, should come under the Canada Approved, everybody agreed with this.

Now, three years have gone by. These places are using the excuse that economically they can't do it. This to me, Mr. Chairman, is nonsense because I took my colleague, the Member for Seven Oaks on a tour of one of the department stores just the other day and there was just as much product in this department store from processing places that do not come under the Canada Approved system. They are expanding all the time and as I stated before it wouldn't cost them anything extra to have these inspectors there. It seems to me that the Federal Government says that they will do a certain thing and now they won't do it -- they say to you that the provincial government has to get them up to a certain standard and then they will consider taking them over. To me, Mr. Chairman, this is not what I thought was going to happen when I introduced my resolution three years ago. I thought that by now, the major, the bigger ones of these meat processing plants would all be under Canada Approved inspection. And as I stated on the Minister's salary, there is only one in the metropolitan area that comes under Canada Approved inspection, and this, I think, Mr. Chairman, is a disgrace when three years ago the government said that they would start a program where they would try to get these places under Canada Approved inspection. I can understand their problem out in the country, as I said before, where they don't have running water and all the other facilities that are needed, but here in the City of Winnipeg where we have all these facilities and where in some of these places are 50, 60, 70, 100 people working, I don't for the life of me see why these people are not forced -- and I know that some of the larger supermarkets will not handle these products. Three years ago when I brought in my resolution, at that time as I stated there was a scare with all the dead animals that were being sold in Ontario, and sick animals that were being brought in and sold that most of the supermarkets did not handle any of those products. Now they are starting to handle them more and more every day.

Now there is one easy and simple way for the public to know what has been inspected under the Canada Approved. They have a legend and it says on it "Canada Approved" and it doesn't matter if it's a package of sliced meat, a ham or any cut of meat, it's got that legend on it. Mr. Chairman, this is not good enough for a city of this size, with all the facilities that they have and everything else that we still have, of all the dozens and dozens of meat processing plants in this province, that there is only one of them that comes under the "Canada Approved" system, and I think that the government has fallen back on what they said they would do three years ago.

It's all very well to say that they go and inspect these places periodically, and I said before, I don't care if they go every day, that's still not good enough. They have got to have someone there every time, every hour that they are in production. That's the only way. I mentioned what happened with meat that was involved in trailers turning over or in a railroad-accident,

(Mr. Peters cont'd)how it gets full of dirt and everything else. That meat finds its way into the small processing plants and it is Canada Approved meat, but because of being involved in an accident where the trailer is turned over on the highway and gotten full of dirt it's not sanitary any further. These are the things the government should be looking into.

MR. WITNEY: The government is endeavouring right now to bring the slaughter houses up to a level where they will be able to meet the Canada Approved standards and at least be able to allow the Federal Canada Approved regulations to take over.

With respect to the comments that were made at the beginning of his speech, if the honourable member will give me the names of those establishments that he is speaking of, I will assure him that they will be inspected and if they happen to fall within the City of Winnipeg, well then I'll have to request that the City of Winnipeg would make the necessary inspection of them. The public of course as he mentions can assure that they have good meat supply in their homes if they buy meat that has the Canada Approved label on it. And it may be just as well to say that here, that anyone who buys Canada Approved meat with the Canada Approved label on it, is buying meat from plants that do meet the necessary standards.

MR. PETERS: take the Minister on a tour one of these mornings; an unannounced tour of these plants. And let's get in the back door and not in the front door and you'll get your eyes opened.

MR. CHAIRMAN: passed.

MR. WITNEY: Just one comment, Mr. Chairman, I would like to say I checked as to whether the inspectors announced their coming and I was advised that they do not.

MR. MOLGAT: Mr. Chairman, I wonder if the Minister could tell us what his policy is with regard to sewage lagoons. Does he recommend them to local area, or does he not recommend them?

MR. WITNEY: Yes, Mr. Chairman, you carry on.

MR. SMERCHANSKI: All I was going to ask the Honourable Minister Mr. Chairman was a related question and that is, in reference to the effluent coming out of these lagoons and proposed lagoons, is the discharge from these lagoons going to be chlorinated in any way or will it be permitted to discharge the effluent into the Red River and Assiniboine River; and if so, to what extent is this going to add to the present pollution condition in the Red River and the Assiniboine River as presently constituted, because both these rivers are receiving a certain amount of raw sewage and the effluent from the lagoon discharge is going to add considerably to the pollution and I'd like to know if this discharge is going to be chlorinated or what will be done in order to control it.

MR. WITNEY: Mr. Chairman, following the remarks that were made by the Honourable Member from Burrows, when he spoke to the Speech from the Throne I had his various comments forwarded across to the Environmental Sanitation Division for some comment on them and the comments I think may be recorded here now. I am advised that the sewage lagoon provide a natural environment replete with dissolved oxygen which is quite the opposite to the condition normally found in a cesspool. It is generally accepted that antric disease germs are not airborne but there is no doubt that at one period of the year, shortly after the ice is melted in the lagoon cells and before the contained material has a chance to be restabilized in the presence of oxygen, some degree of odour may be expected. The consulting engineers responsible for the design of the Charleswood Lagoon system estimate that this would be a period of roughly four percent of the time or up to about two weeks in each spring.

The United States Health Service in a review of the operation of five sewage lagoons in North and South Dakota found that the minimum reduction of coliform organisms was over 50 percent and generally the reduction was in the neighborhood of 90 percent or better. The coliform bacillus is used as an indicator of the probable extent of pathogenic or dangerous organisms. Secondly, the multi-cell system of sewage lagoon treatment is generally conceded to be equivalent to the primary plus secondary stages of standard sewage treatment by mechanical means. It may be expected that what might be called vapor from a sewage lagoon will be quite innocuous and not irritating. However, there might be some noticeable odour present for a few weeks in the spring of the year.

The lagoons at Charleswood for instance, will be brought up to load capacity quite slowly and I understand that this will give the Metro sanitary officials a chance to study all

(Mr. Witney cont'd) aspects of odour control and provide counter measures if necessary.

The tremendous growth of algae in the sewage lagoons could lead to the discharge of nutrient materials capable of sustaining and encouraging additional plant growth in the receiving river, but here again the use of multi-cells in a row should enable most of this material to be effectively trapped and with the gradual loading program envisaged, the people in charge of the lagoon operation will have a chance to study and counter any potentially adverse conditions.

The professor of bacteriology was asked to comment about lagoons and he said that the bacterial and virus content in a lagoon is probably less than in other sewage for the following reasons: (a) the interference from multiple bacteria (b) the presence of detergents (c) the presence of sunlight and (d) evaporation with consequent increased salt concentration.

He says that an aerosol is usually considered to be a mist produced under pressure and under these conditions, organisms or particulate matter can be dispersed through the air. However, this situation does not occur in lagoons and therefore aerosols do not result from lagoon action. Evaporation which is present in lagoons does not carry particulate matter; the vapour which may arise from a lagoon area is a distillation process and as a result no particulate matter which might spread virus infection is dispersed. In addition, the provincial Sanitary Control Commission takes regular tests of the river to assure that there is not undue pollution taking place.

MR. SMERCHANSKI: Mr. Chairman, I unfortunately have to disagree with the Honourable Minister in his definition of aerosol, even if it is a professor of bacteriology who defines it. An aerosol is not necessarily a matter of being created under pressure. Aerosol is defined as a finely suspended particle in air, and when you have air and oxygen bubbling through the sewage lagoon, you are creating aerosol conditions and you are discharging fine particles of water vapour into the atmosphere. The same thing is happening when you are boiling a kettle of water. And to have anybody else, a professor included, say it's any different then you are defying the basic principles of physics. --(Interjection) -- Well I happen to have demonstrated in physics and I think I can still demonstrate on a very proper basis.

Another thing, Mr. Chairman, I'm very much intrigued with the definition of a multi-cell lagoon treatment. This is something that has been brought into existence quite recently, because this was not the definition that was given to us during the proposed construction of the lagoon and this is not the details of the construction of the lagoon of the preliminary plans that were published in the newspapers.

Now the other point is, how in the world are you going to destroy pathogenic organisms in a sewage lagoon? Secondly, the discharge of the effluent from a lagoon you can slice it, you can analyze it, you can smell it, whichever way you want, and you find that the discharge from the lagoon is loaded with nitrogen, phosphorous, all of which are a natural nutrient in the supporting of bacterial growth. It is very interesting to hear the Honourable Minister state that the people who are responsible for this project are going to have a chance to study it. Now, Mr. Chairman, on the one hand we have a definite commitment with absolutely straight line forward ideas of how this thing should be done and it is not going to be objectionable and it is going to perform a specific job. Then on the other hand we say that this will give the people who are responsible for this work an opportunity to study it. What will happen if this thing is not functional? After spending all this money, after this large capital investment and then finding that it does not solve the problem.

Another thing is that I have had occasion to be in the Grand Forks area on various occasions and I want to tell you that the people in that area -- and I will of course find no fault with the United States Health Service, but I want to tell you that the consensus of opinion of the people in the vicinity of the lagoon is that it is highly undesirable and in our highly populated area of St. Charles, this is going to be more highly undesirable. And even though the Minister of Mines and Natural Resources made the remark that I was playing in the bottom of a lagoon, that still doesn't make any difference to me. The fact of the matter is that I think foresight is worth a little bit more than hindsight and the thing is that I am very much concerned from the standpoint of knowing something about bacteriology in that the effluent from an open lagoon, when it is discharged into the Red River and the Assiniboine River, when it is added on to the contamination that already exists in these channels, also the raw sewage that is presently dumped into these channels, you are going to have a pollution problem far in excess

(Mr. Smerchanski cont'd) of what we have today Mr. Chairman. There's no two ways about it.

MR. WITNEY: from the Honourable the Leader of the Opposition whether or not I was in favour of sewage lagoons. From what I can gather from the information that has been given to me, sewage lagoons can be properly engineered and be a satisfactory device and so the answer is yes. If it were not for the operation of sewage lagoons, there would probably be a large number of small towns in Manitoba who would not be able to have modern facilities. The sewage lagoon has provided a means whereby modern facilities can be brought to these communities.

MR. CHAIRMAN: Committee rise and report. Call in the Speaker.

Madam Speaker, the Committee of Supply has considered a certain resolution and directed me to report the same and ask leave to sit again.

MR. W. G. MARTIN (St. Matthews): Madam Speaker, I beg to move, seconded by the Honourable Member for Springfield the report of the committee be received.

Madam Speaker presented the motion and after a voice vote declared the motion carried.

MR. EVANS: Madam Speaker, I beg to move, seconded by the Honourable the Minister of Health that the House do now adjourn.

Madam Speaker presented the motion and after a voice vote declared the motion carried and the House adjourned until 2:30 o'clock Wednesday afternoon.