



Third Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

**DEBATES
and
PROCEEDINGS**

**Official Report
(Hansard)**

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Speaker*



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

| Member | Constituency | Political Affiliation |
|----------------------------|---------------------|------------------------------|
| ASHTON, Steve | Thompson | N.D.P. |
| BARRETT, Becky | Wellington | N.D.P. |
| CERILLI, Marianne | Radisson | N.D.P. |
| CHOMIAK, Dave | Kildonan | N.D.P. |
| CUMMINGS, Glen, Hon. | Ste. Rose | P.C. |
| DACQUAY, Louise, Hon. | Seine River | P.C. |
| DERKACH, Leonard, Hon. | Roblin-Russell | P.C. |
| DEWAR, Gregory | Selkirk | N.D.P. |
| DOER, Gary | Concordia | N.D.P. |
| DOWNEY, James, Hon. | Arthur-Virden | P.C. |
| DRIEDGER, Albert | Steinbach | P.C. |
| DYCK, Peter | Pembina | P.C. |
| ENNS, Harry, Hon. | Lakeside | P.C. |
| ERNST, Jim | Charleswood | P.C. |
| EVANS, Clif | Interlake | N.D.P. |
| EVANS, Leonard S. | Brandon East | N.D.P. |
| FILMON, Gary, Hon. | Tuxedo | P.C. |
| FINDLAY, Glen, Hon. | Springfield | P.C. |
| FRIESEN, Jean | Wolseley | N.D.P. |
| GAUDRY, Neil | St. Boniface | Lib. |
| GILLESHAMMER, Harold, Hon. | Minnedosa | P.C. |
| HELWER, Edward | Gimli | P.C. |
| HICKES, George | Point Douglas | N.D.P. |
| JENNISSEN, Gerard | Flin Flon | N.D.P. |
| KOWALSKI, Gary | The Maples | Lib. |
| LAMOUREUX, Kevin | Inkster | Lib. |
| LATHLIN, Oscar | The Pas | N.D.P. |
| LAURENDEAU, Marcel | St. Norbert | P.C. |
| MACKINTOSH, Gord | St. Johns | N.D.P. |
| MALOWAY, Jim | Elmwood | N.D.P. |
| MARTINDALE, Doug | Burrows | N.D.P. |
| McALPINE, Gerry | Sturgeon Creek | P.C. |
| McCRAE, James, Hon. | Brandon West | P.C. |
| McGIFFORD, Diane | Osborne | N.D.P. |
| McINTOSH, Linda, Hon. | Assiniboia | P.C. |
| MIHYCHUK, MaryAnn | St. James | N.D.P. |
| MITCHELSON, Bonnie, Hon. | River East | P.C. |
| NEWMAN, David, Hon. | Riel | P.C. |
| PENNER, Jack | Emerson | P.C. |
| PITURA, Frank, Hon. | Morris | P.C. |
| PRAZNIK, Darren, Hon. | Lac du Bonnet | P.C. |
| RADCLIFFE, Mike, Hon. | River Heights | P.C. |
| REID, Daryl | Transcona | N.D.P. |
| REIMER, Jack, Hon. | Niakwa | P.C. |
| RENDER, Shirley | St. Vital | P.C. |
| ROBINSON, Eric | Rupert'sland | N.D.P. |
| ROCAN, Denis | Gladstone | P.C. |
| SALE, Tim | Crescentwood | N.D.P. |
| SANTOS, Conrad | Broadway | N.D.P. |
| STEFANSON, Eric, Hon. | Kirkfield Park | P.C. |
| STRUTHERS, Stan | Dauphin | N.D.P. |
| SVEINSON, Ben | La Verendrye | P.C. |
| TOEWS, Vic, Hon. | Rossmere | P.C. |
| TWEED, Mervin | Turtle Mountain | P.C. |
| VODREY, Rosemary, Hon. | Fort Garry | P.C. |
| WOWCHUK, Rosann | Swan River | N.D.P. |
| Vacant | Portage la Prairie | |

LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, May 1, 1997

The House met at 10 a.m.

PRAYERS

ROUTINE PROCEEDINGS

ORDERS OF THE DAY

Hon. James McCrae (Government House Leader): Madam Speaker, as agreed between the parties in the House, it was the intention that this morning we would proceed to debate on second readings, and I believe the bills could be called in the order that they are listed on the Order Paper.

DEBATE ON SECOND READINGS

Bill 2—The Arbitration and Consequential Amendments Act

Madam Speaker: To resume debate on second readings, on the proposed motion of the honourable Minister of Justice (Mr. Toews), Bill 2, The Arbitration and Consequential Amendments Act (Loi sur l'arbitrage et modifications corrélatives), standing in the name of the honourable member for Transcona (Mr. Reid).

Is there leave to permit the bill to remain standing?
[agreed]

Mr. Steve Ashton (Thompson): Madam Speaker, I just want to rise on this particular bill to put on the record, as I did yesterday, my feeling that there is a sort of a surrealistic element here to be debating bills like The Arbitration and Consequential Amendments Act, given the circumstances in our province at the current time.

We have been working fairly co-operatively on trying to accommodate the flood demands that MLAs have been faced with. We have delayed votes, we have eliminated quorum requirements, we have shifted Friday sittings, but I would point out that the last time we made an agreement on Monday, the crest that was predicted that time was for several days later, and we are in the situation today where the crest is going to be

hitting the city of Winnipeg, will be hitting downstream the next several days. I felt earlier in the week—and I did raise this with the government House leader. I questioned why we would be sitting this week when the crest was sitting all over southern Manitoba and the city.

I want to suggest that we may want to consider adjourning the House. I say to the government that I will say on the record on behalf of our caucus that if the government wishes, we will make up—there are two hours of bills today. We will make that time up. We can make up the Estimates time. We are not asking for Question Period to be rescheduled. We have already given up Question Period tomorrow. We understand that. We are prepared to give up Question Period today. I throw this out because quite frankly I feel—and we are all in this situation. Some people in this House have been either evacuated or are in the process of being evacuated. They should not be here but still feel some obligation, and I know there are a number of people on our side in that situation.

You know, you are an elected member of the Legislature, and when the House sits, your obligation is to be here. I know others have been helping different parts of the city, and I note that there are several people here who were out yesterday sandbagging. There were people out this morning, and when we are listening on the radio for several hundred people at a time needed for sandbagging, I just think that we may want to consider whether we are spending productive time in the House, whether we might be better off in helping people, whether it be here in the city and other communities downstream that have not been evacuated yet. There are various communities that are involved.

* (1005)

So I put that on the record, Madam Speaker. I will repeat again to the government that we are prepared to reallocate any and all times that are lost, whether it be Estimates or bills. I am not trying to be critical. I think on Monday we had a totally different sense of what the scenario was going to be when we came up with this agreement. I think this was a good agreement, but

circumstances have changed. I think we all know that over the next several days you still have the peak levels in southern Manitoba that are going to be around for quite some time. There are going to be peak levels in the city further downstream.

I think we are going to be in the same situation at the end of next week, quite frankly, from people who know a lot more about what is happening on the flood situation, so we may want to consider whether we sit today. I would suggest that we may want to assess on a day-by-day basis whether we sit next week, Monday, Tuesday, Wednesday, Thursday. The offer from our side to reallocate time is not just for today; it is for any day that we have to not sit.

I understand there is a sort of a rationale at times that we should not be creating any sense of panic out there. I am not saying that. I believe the resources that are in place are doing a very good job, but, you know, it comes down to more of a human thing. I think personally that many of us feel we would be far better off out helping those affected by the flood than debating—I have to be relevant here—Bill 2, The Arbitration and Consequential Amendments Act.

So I throw that out. I would suggest that we have those discussions. Even if we have bills this morning, we still are coming back this afternoon technically. We can make that decision before then. I say this in good faith and not being in any critical way whatsoever. I think it is more of a human thing. We are not saying this is a state of emergency to that degree, but I think it is more a question of where we would rather be, and I would rather be out helping people like my brother and others who have been evacuated, helping people in communities that are still trying to stop the flow of what is going to be probably be the worst natural disaster, one of the worst natural disasters anyway, in Manitoba history. I think we all recognize the flood levels are at a several-hundred-year peak level.

I would suggest we reflect on that. I know what we can do perhaps as we continue this is perhaps discuss on this matter. I know I believe the Leader of the Opposition (Mr. Doer) may want to talk on this as well, just to give some thought to this. But I think we should reflect on that. I mean, part of me says that we should be sitting no matter what. I understand that. I think we

all have that sense of obligation, but you know this time I think we feel that pull, I think all of us, and quite frankly I would rather be out there right now with a sandbag in my hand than giving a speech, which I think is the way most Manitobans are.

So I throw that suggestion out, and I am prepared to sit down with the government House leader. The government House leader may wish to consult with members in his caucus. We just had a meeting this morning, and I, by the way, apologize for not being able to contact the government House leader before. I know we had talked about touching base. No bad faith intended from that, but quite frankly we had a discussion, and that was the consensus. The feeling was that we should offer to the government to allocate any and all times and make sure that we are out there helping fight the flood. Thank you.

Mr. Gary Doer (Leader of the Opposition): I too would like to join the member for Thompson (Mr. Ashton) in the debate on second reading on The Arbitration and Consequential Amendments Act. It is an act, of course, that will repeal the existing Arbitration Act, and the alleged purpose of the act is to significantly modernize the governing of private, domestic arbitrations in this province.

I want to talk about modernizing the decisions that we are making in this Legislature in terms of the current situation and consequences of the current situation here in this province. I want to join with the member for Thompson in articulating the concerns of our constituents, and I know this is not an issue of one party or another but the concerns of our constituents over the changes that have taken place in this last week and the consequences of those changes, albeit that they are arbitrary in nature with the rapidly rising water in our communities.

Madam Speaker, we had an agreement with the government to make changes on the Friday schedule to look at the consequences of a peak scheduled to be on May 5 in this community and May 3 in southern communities adjacent to the city of Winnipeg and May 1 to be even south of that. Since that decision was made and since the agreement was made in good faith, there have been new developments and new projections and new forecasts that affect almost every member of

this Legislature, whether directly in terms of the constituencies that we represent or indirectly like the member for Thompson (Mr. Ashton) where his relatives and friends are affected directly by the flood.

* (1010)

Many of us know that there is a great deal of anger out there about calling a federal election which seems to be totally irrelevant to the realities of our province, that the consequences of calling a federal election are totally devoid of the realities that our constituents and our communities are facing. I dare say, Madam Speaker, with the greatest of respect, that there is also a similar feeling to us being in this Legislature this morning when our own constituents want us to be hauling sandbags, organizing sandbag people, organizing lines, dealing with the morale of people on the sandbagging lines. This is both a huge challenge of technology and predictions and engineering, but it is also a wonderful challenge of the human kind. Person by person, sandbag by sandbag, we can make a difference to the consequences of this flood, and I continue to talk on the relevance of this bill because it has consequences to it.

Madam Speaker, I say in this debate on Bill 2 that I think we are missing the proverbial boat by being in here. We all know that in terms of legislative debates that the timing of when legislation is passed, the ability of an opposition party to move amendments, to debate bills, to move hoists, the timing of when these bills will be passed will not necessarily be directly related to the amount of hours we are in this Chamber. It will be based on the public will and the will of the members in this Chamber.

Whether we are standing here for two hours this morning talking about Bill 2 or not may not be the determining factor of how fast we will pass Bill 2, and you know that because some members here have been in opposition, they have been in government. You know that the public will decide when the bills are passed, what the objections to the bills will be, what public feelings will be felt in committee, and if we speak for 20 hours on Bill 2 or we speak two hours on Bill 2, it will be the public will that will determine what the members of this Legislature do and, therefore, how long we will be doing it.

So when we are debating Bill 2 this morning, we have to ask ourselves what are the consequences of debating Bill 2 this morning or what are the consequences of being out in our communities dealing with this massive challenge that we have called a peak that is arriving in communities like St. Adolphe, St. Norbert, St. Vital, parts of St. Andrews, Selkirk and, obviously, lots of Winnipeg. We further know there are consequences going on with the potential and proposed increase in the peak of the Assiniboine River. Members now are being alerted in western parts of Winnipeg to be concerned about the peak of the river, and people are quite concerned about what this means.

I think this Legislature has operated with the proper balance over the last two weeks since this crisis developed. We all watched with horror what we saw in Grand Forks. We have all been through floods before. Whether we have been in this Legislature or not, we have all been through floods before. The member for Swan River (Ms. Wowchuk) and the member for Dauphin (Mr. Struthers) went through major floods in 1995. The Red River Valley was hit very dramatically in 1996. This follows on a dramatic flood in 1979, and, of course, many of us are connected to our parents who fought the flood in 1950.

* (1015)

I remember two major stories my father and my mother would talk about as a young person growing up. One was the war and the other was the flood of 1950. One was passed on to me with a sense of disaster but pride with the results that took place in the 1950 flood, the community working together. It was kind of a sense of the feeling you get now in our communities here in Winnipeg, and, of course, the war only represented disaster because some of my father's and mother's friends and relatives were killed in that war.

So I think we have had the proper balance after the Grand Forks situation where we saw almost a scene out of Dante's Inferno. We have had that balance in this Legislature. We have work to do. We do not want to panic the population. We do not want to stampede any kind of fear that is unnecessary, but at the same time we want to make sure that we are not holding any of our members back for votes or for quorum counts.

Now, it would be easy for the opposition party which usually decides when a vote is to take place to have our members out in the constituencies and decide when the votes are going to take place. We do this normally, as you know, but this is not fair to members opposite. We know that the Speaker is working on the flood directly. We know that the member for St. Norbert (Mr. Laurendeau) is working directly. We know that all of you across the way are working in your constituencies. We know some of you have different roles in your constituencies. We know that some of you are co-ordinators, and if you are a co-ordinator, you have a greater responsibility, because 300 or 400 people may rely on you being there, than some of us who are just hauling the sandbags and moving the bags around in the sandbag lines.

The member for St. Johns (Mr. Mackintosh) is co-ordinating all the work on Scotia Street. I do not think he has slept more than two or three hours for the last two weeks. I will bet you his lifestyle is exactly the same as the member for St. Norbert (Mr. Laurendeau); two different parties, two different ends of the city and probably the same reality in terms of dealing with volunteers and fighting a collective enemy and the consequences of that collective enemy, if I can be relevant to the bill, in terms of our community.

I think, Madam Speaker, therefore, that the co-operation we have provided has been positive. There was a little scuffle on Monday, but I could not understand it. We were going to cancel the evening session, cancel private members' hour and have debate on Estimates go to six o'clock. Now, I could not understand why we had a disagreement. I understand most times why we have a disagreement and the consequences of those disagreements, but I could not understand on Monday why we had a disagreement.

You go from eight o'clock at night to midnight, and that is four hours, and you go in two committees, that is eight hours. You have four private members' hours that are cancelled, and then you have two committees going; that is four times two. Now, where I come from, that was eight hours. Now, why do we have a silly little fight for a couple of hours on Monday? Je ne comprends pas. I do not understand. We offer eight hours back. In fact, we offered more time back than what normally would be expected, because we can end

an Estimates department at 10:01, and you would actually lose time.

So I just say that with the balance that we had and the changes that we have had are good. I think having Question Period the last couple of weeks has also been positive. I have not been one who has favoured shutting down the House. We have been able to be, I think, positive. I am glad the Premier (Mr. Filmon) has announced today what we suggested on Tuesday. I think it is good for Manitobans. It is probably very good for farm households, and it is probably very, very good for people whose homes have been destroyed.

I am glad we have been able, at this Legislature, to use this as a way to get the federal government to move. I think we did some good work, and therefore we have had the proper balance. I think, but the consequences of the changing peak—and we have literally got all our caucus members out on sandbagging lines.

Now, we can leave three or four people back here and debate these bills, but we are not going to be passing bills today, so we are obviously at the beginning stages of the debate of the bills. But what we have always said, last week and this week, that whatever time we lose in Estimates on a Monday night, we are prepared to make up that Estimates time on another occasion.

We are absolutely committed to making up the Estimates time. We are not going to play games with you. Last week we cancelled eight hours on Monday night. In fact, we could have cancelled only four hours on Monday night, because we can finish departments at 10:01 and not call another department, and we did eight hours on Estimates time in the evenings.

* (1020)

We are on or about on a schedule to finish Estimates sometime in June. The peak has changed, and we are suggesting today, under the debate on Bill 2, that the consequences of the peak being changed should mean that we are in our communities doing our work and being with our constituents. I think this is totally relevant to the debate on Bill 2. I think that dealing with Bill 2, and the peak of the river taking place—I know that many of us did not sleep much last night

because if we had neighbours who had pumps that were required to save little spots in the dike, you had to be watching the pumps. It did not make any sense to sleep, not that that would change our demeanor in this House because we do not need a lot of sleep to have some energy, but what we are suggesting that we do today is to take account of the changing realities in our community, and, as I am sure our House leader passed on to the government's House leader, we can debate Bill 2 all morning or we can go out and sandbag. We can debate Bill 2 for another—in fact, I think I have a little bit of time on Bill 2, and if you people want to hear me instead of sandbag, you are crazier than I thought you were because I have unlimited time, you know, under the old rules and even under the new rules, and we can debate about the consequences of who blew that.

I think that members opposite, dare I say it, would have a lot better things to do than listen to me, especially on Bill 2, because the consequences of the flood are what we should be dealing with. [interjection] Well, I think I can get an agreement here.

I was quite disappointed in the Minister of Justice's (Mr. Toews) explanation of Bill 2, because he referred to the Uniform Law Conference act of Canada of 1990. Among the many reforms, the new act places greater recognition on the will of the parties. When we are talking about the will of the parties under Bill 2, we should be talking about the will of the parties to continue our co-operative agreement forward to our communities and to our constituencies.

No finer example can I see of the will of the parties demonstrated that is not in a piece of legislation like Bill 2 but in the will of our communities, the will of our communities to work on this flood. Madam Speaker and every other member of this Legislature are working together in a co-operative way. Bill 2 speaks to this issue. I am not so sure that Bill 2, in terms of recognizing the will of people, has recognized the will of people in Manitoba in 1997. This act is outdated, I would suggest. It recognizes only the will of the people in 1990.

We believe the will of the people in 1997 goes far beyond what the Minister of Justice (Mr. Toews) has proposed in this consequential amendments act and this

arbitration act. We believe that the will of the parties and the greater recognition of the will of the parties is somewhat dated by the 1990 proposal from the Uniform Law Conference of Canada. [interjection] Well, this is what we are debating today. The Minister of Justice does not have a blank cheque on the will of the people and the will of the parties. We in this Legislature, all 57 members of this Legislature, have the ability to assess and determine the will of the parties, and we have all been participating with the will of the parties in the most effective ways in our community.

I have to say that the consequences of the will of the parties in this bill and in this community has been extremely, extremely positive. We think, of course, that the Minister of Justice should take a look at this bill, and, obviously, I think there will be thousands of Manitobans that will be presenting views at second reading on this bill, but right now they could not do that. What if we were to pass this bill to committee today and people were tied up with sandbagging, people were tied up with dikes, people in St. Adolphe were tied up with protecting their community, people in the constituency and municipality of Alexander and other communities, St. Andrews, were tied up with protecting their communities? Some people, you know, have only had 24 hours notice to go out and build dikes and walls around their communities. How could we possibly pass this bill now and look at the relevance of a 1990 section of this bill when, in fact, the people could not even come out to speak?

I know the Minister of Justice (Mr. Toews) does not want to deny people in his constituency the opportunity to speak on Bill 2 at the second reading stage, but, obviously, we must carry on this debate on Bill 2 in this Legislature in terms of its relevance to our present circumstances.

* (1025)

An Honourable Member: Five more minutes. I think they are working it out.

Mr. Doer: Think so? Well, I would ask the Minister of Justice to put in his Kildonan Drive view of the will of the people and the will of the parties.

An Honourable Member: I would close debate if I stood up on that.

Mr. Doer: Oh, I know that. I was talking about that debate, which seems to be relevant.

An Honourable Member: Well, they are sandbagging right on my drive today.

Mr. Doer: They are sandbagging right on your driveway? Well, I am very sorry to hear that with the Minister of Justice.

You know, the Minister of Justice—I want to again in the nonpartisan way that we have been all working together—was jogging by our house, and my neighbours the Baergs and ourselves were sandbagging, and many of the Minister of Justice's own constituents were, of course, sandbagging in our backyard with Bill and Irmegard Baerg and the Minister of Justice. He came in from his jogging and he helped us sandbag for a couple of hours, moving bags around, and he was off to Dauphin. I will not comment on his speech in Dauphin after that. I tried to give him advice when we were sandbagging, but, obviously, it had no impact. I do not think the Minister of Justice wrote that speech, but that is another matter. I think you will be giving a different speech on June 5, but it will be a subtle shift.

Maybe in terms of the will of the parties I might be wrong. We may agree on registration and the inadequacy of the registration policies and our opposition of registration in Manitoba in terms of the will of the parties. Perhaps, Madam Speaker, this bill is quite germane to the debate we are having on the gun registration and C-68 in Manitoba. Maybe the will of the parties should be to have an arbitration take place on the disastrous proposal that has come forward from the federal government on registration.

It is unworkable. Good law-abiding citizens all across our province are saying that Bill C-68's registration proposals are unworkable. Maybe this act could provide for an arbitration, because we have the parties, the western Canadian ministers of Justice, one New Democrat in Saskatchewan, two Tories, the Minister of Justice in the Yukon; a New Democrat, and a member from the Northwest Territories are parties to a suit against the federal government using property

right sections under the federal acts to oppose the registration.

Now, I have said this is silly to have ministers of Justice suing ministers of Justice on a matter of justice. Maybe the kind of spirit of this act, where the will of the parties is in conflict, maybe we should have the ministers of Justice go back and start from the parts of Bill C-68 that we all agree on, enforcement, tougher penalties for people that fail to properly deal with firearms. Maybe we should be looking at greater restrictions to weapons that cause crime and greater restrictions on handguns and other weapons that cause crime.

Nobody in this Legislature, in terms of Bill 2, wants to have the consequences of that act to be a kind of unworkable law. Having said that, I do not think we should pander to the kind of American influences, and I would say extreme right influences, that believe that there should be no responsibilities in a community and no accountability in communities dealing with the unfettered use of firearms in a society that kills more people in the city of Detroit than kills people in Manitoba and Winnipeg or in Canada on a yearly basis. More people are killed in one city in the United States.

So we do not want to get, in my view, sucked into that kind of extreme unfettered use of gun message. On the other hand, we have to say to the federal Minister of Justice his registration proposal is opposed by two of the three parties here in Manitoba, should be opposed by all three parties of Manitoba. In the Saskatchewan Legislature, all three parties disagree with it. In the Alberta Legislature, I believe that all three parties disagree with it, and in the Yukon, I know that all the parties disagree with it.

* (1030)

Something is wrong with this picture. We have parties that have the will of the people involved in dispute, and why can we not go back to the table or use the consequences or the kinds of measures that are looked at in Bill 2 to have an arbitration process or some other way of going back to the table and having a discussion and a more workable solution if a registration proposal is nonworkable, and I include some of the most NDP NDPers in some of our

communities. If it is unworkable and law-abiding citizens do not want to abide by the law, we have a serious issue of justice, and I think that is what some of the principles of Bill 2 try to deal with, try to say if there is a will of the parties to deal with something, let us have a way of resolving our dispute rather than a winner-take-all approach in the courts.

Now, Madam Speaker, what is going to happen in the courts? If the federal government wins, what is the Minister of Justice going to do? My view is—and I have always supported the Justice Freedman decision on *Catagas*, I think is the case law, where the Crown does not have a choice in enforcing the law. On the administrative components that are required by provincial government, the Crown does have a choice, but *Catagas* has always been my belief.

I disagreed with the former Minister of Industry, Trade and Tourism when he refused to implement the Sunday shopping laws before the Sunday shopping laws were changed. I quoted *Catagas* in this House, and I believe my interpretation of *Catagas* from Freedman—I read the case because it dealt with enforcement of laws on a First Nations community. I think that our interpretation of *Catagas* was correct.

But what happens, Madam Speaker, if the government is unsuccessful? We have not had a way to resolve this issue. Members opposite would understand the *Catagas* principle and the Freedman decision. I think former Chief Justice Freedman is a brilliant man and a human man. I think he writes with impeccable clarity. I am not a lawyer, but as a citizen of the country and a person who does not practise law, I could read *Catagas* or any other decisions of former Chief Justice Freedman and understand what they meant. I can understand the clarity and the common sense of humanity that Freedman used to take law and people and put it together in a long-term sensible way. He spoke well and eloquently to the people of Manitoba and to the decisions that were made.

Madam Speaker, I think that we may have a difficulty here. I think the principles of Bill 2 should be the principles, not necessarily the sections, of resolving a dispute between ministers of Justice rather than going to court—I think are sound. Maybe they do not have the ability to do this now, but after the next federal

election, whoever is the new Minister of Justice—because if the incumbent government gets elected, I do not know whether the present incumbent would stay as Minister of Justice, but I think we need a fresh face in Ottawa to deal with some of these administrative issues, and I think we need to go back to the table and deal with these principles and these concepts in a way that makes sense for the people of this province and, indeed, for the people of western Canada.

An Honourable Member: I got to go sandbag.

Mr. Doer: The Minister of Justice (Mr. Toews) has got to go and sandbag. We are speaking on his bill. If the members opposite want to adjourn the House so we can come back and continue the debate on Bill 2—I respect the fact that the Minister of Justice has to sandbag, but the traditions of this Legislature are that the minister responsible for a bill listens to the debate on the bill while the debate is taking place.

Now, I have no problem accommodating my good friend the Minister of Justice. I have absolutely no difficulty accommodating him, but I am sure he is going to continue to extend the courtesy to us who have to debate the bills and not sandbag, that he cannot go sandbag while his bill is up. I cannot believe this is happening.

An Honourable Member: He was taking notes.

Mr. Doer: Yes, well, he is going to stop taking notes because the member for Wellington (Ms. Barrett) has got some really good ideas on Bill 2. [interjection] Well, she may have to move off it. She may have to move off Bill 2 because of the Minister of Justice's departure.

Having said that, Madam Speaker, we have only spoken to one of the six tenets of Bill 2. We can move an amendment, and I can speak to the other five tenets because I have not had enough time in my short period of time this morning to speak to all six tenets of Bill 2.

But I wanted to tie in consequences in terms of working together the principles of co-operation which make sense and the principles of a community resolving its disputes before they take place. Madam Speaker, it has given me an opportunity to speak on my views on

Bill C-68 and why I oppose registration, but I have provided a remedy for that because I think the ministers of Justice should go back and work it out. I do not want a major section of the Criminal Code in dispute between ministers of Justice. When it is antigang law, the only issue in dispute is whether it goes far enough. On this issue, there is a dispute about what it will achieve and what it will cost and what it will mean to the community.

Madam Speaker, I would like to thank you and the Minister of Justice (Mr. Toews) for the opportunity to add a few words on the first tenet on Bill 2. I am still studying the relevant sections of Bill 2 and I cannot decide whether I will vote yes or no. I may not decide whether it is relevant to vote yes or no until I listen to the thousands of people at the committee that will speak up when they have a chance, after the crisis takes place, to speak out on Bill 2 and the consequences of the bill.

Thank you, very, very much, Madam Speaker, for your indulgence in allowing me to speak to the relevancy and principles of this bill. Thank you.

House Business

Hon. James McCrae (Government House Leader): Madam Speaker, on a matter of House business, there have been discussions amongst members of all three parties, and because the Legislature and all Manitobans are facing extremely difficult circumstances these days, we have reached an accommodation whereby we would not sit this afternoon, as we had initially discussed, at 1:30.

There is a concern in the operation of a Legislature, as in any important undertaking, that the work get done in the most orderly way possible, and with honourable members from all parties actively involved in their communities in one place or another and at one time and another, it is felt that to operate the Legislature this afternoon might present certain difficulties that might be hard to overcome.

So with that in mind, House leaders have agreed that the House would not sit this afternoon, but that a week from next week, the week, I believe, which begins around the 11th day of May, we would address the Estimates issues that we have before us in such a way

that we would run three Estimates Committees of Supply rather than two, which is the ordinary course, until we had made up the time that we had lost from having forgone the requirement of sitting this afternoon.

So I think that is the understanding that we have. The honourable member for Thompson (Mr. Ashton) may well want to add something to what I have said. What that would do, it would have us finish our deliberations this morning on bills. Honourable members may want to discuss one or two other of the bills this morning, and then when we adjourn that proceeding, then the House would stay adjourned until Monday next at 1:30.

* (1040)

Mr. Steve Ashton (Opposition House Leader): I just want to confirm the discussions which were conducted between all three parties. I want to indicate I appreciate the consensus we have here. I think it is important. Our assumption is that we will be back Monday unless there are circumstances that come up in between, so I will be advising members of our caucus of that, but, obviously, I believe it probably is in our interest if we touch base Monday morning. The way this crisis has been developing, you never know what may happen, but that means we will not be sitting this afternoon and tomorrow, but unless circumstances intervene, we will be here on Monday.

I do believe we also have a member that is wishing to give a speech on a very important bill, so we will probably have at least one more speaker on bills, and I assume at that time we can probably adjourn for the day.

Madam Speaker: I will just get on the record the leave that has been granted for clarification.

First, is there leave for the House not to sit this afternoon? [agreed]

Beginning the week of May 11, three sections of Committee of Supply will sit until the lost time will be made up. [agreed]

When the House adjourns today, it will stand adjourned until 1:30 p.m. Monday. Is there agreement? [agreed] Thank you.

Bill 3—The North American Environmental and Labour Cooperation Agreements Implementation Act

Madam Speaker: To resume second reading debate, Bill 3 (The North American Environmental and Labour Cooperation Agreements Implementation Act; Loi sur la mise en oeuvre des accords nord-américains de coopération dans les domaines de l'environnement et du travail), on the proposed motion of the honourable Minister of Industry, Trade and Tourism (Mr. Downey), standing in the name of the honourable member for Burrows (Mr. Martindale).

An Honourable Member: Stand.

Madam Speaker: Stand? Is there leave to permit the bill to remain standing? [agreed]

Bill 4—The Steam and Pressure Plants Amendment Act

Madam Speaker: To resume debate on the second reading of Bill 4 (The Steam and Pressure Plants Amendment Act; Loi modifiant la Loi sur les appareils sous pression et à vapeur), on the proposed motion of the honourable Minister of Labour (Mr. Gilleshammer), standing in the name of the honourable member for Kildonan (Mr. Chomiak).

An Honourable Member: Stand.

Madam Speaker: Is there leave to permit the bill to remain standing? [agreed]

Bill 5—The Mineral Exploration Incentive Program Repeal Act

Madam Speaker: To resume second reading debate on Bill 5 (The Mineral Exploration Incentive Program Repeal Act; Loi abrogeant la Loi sur le programme d'encouragement à l'exploration minière), on the proposed motion of the honourable Minister of Northern and Native Affairs (Mr. Newman), standing in the name of the honourable member for Transcona (Mr. Reid).

An Honourable Member: Stand.

Madam Speaker: Stand? Is there leave to permit the bill to remain standing? [agreed]

Bill 6—The Natural Gas Supply Repeal and Public Utilities Board Amendment Act

Madam Speaker: To resume second reading debate, on the proposed motion of the honourable Minister of Energy and Mines (Mr. Newman), Bill 6 (The Natural Gas Supply Repeal and Public Utilities Board Amendment Act; Loi abrogeant la Loi sur l'approvisionnement en gaz naturel et modifiant la Loi sur la Régie des services publics), standing in the name of the honourable member for Burrows (Mr. Martindale).

An Honourable Member: Stand.

Madam Speaker: Stand? Is there leave to permit the bill to remain standing? [agreed]

Bill 7—The Midwifery and Consequential Amendments Act

Madam Speaker: To resume second reading debate, on the proposed motion of the honourable Minister of Health (Mr. Praznik), Bill 7 (The Midwifery and Consequential Amendments Act; Loi sur les sages-femmes et modifications corrélatives), standing in the name of the honourable member for Transcona (Mr. Reid).

An Honourable Member: Stand.

Madam Speaker: Is there leave to permit the bill to remain standing? [agreed]

Ms. Becky Barrett (Wellington): Madam Speaker, I just would like to rise today and put a few comments on the record on Bill 7 which establishes midwifery as an autonomous profession in the province of Manitoba. It is quite interesting that we are debating this piece of legislation or beginning the debate on this piece of legislation in the midst of the crisis of the flood of 1997 because if there is one process in the history of all of us that goes on despite flood, famine, fire or any other of the seven horses of the Apocalypse, it is the process of birth. Nothing, virtually nothing, stops the process of birth, and midwifery—this bill is addressing a

very—[interjection] None of us would be here if that were not the case.

(Mr. Mervin Tweed, Acting Speaker, in the Chair)

I would like to put some comments on the record about the context of this particular bill and the whole process of birth and the role that midwifery has played in the process of birth for thousands if not tens of thousands of years. I think we can safely say that midwifery or the act of helping in the process of birth is probably, and I will go out on a limb here and say not the second oldest profession but probably the oldest profession because since the history of humankind, I would venture to say there have been people surrounding women at the time of birth, if women were lucky enough to have that.

Oftentimes, in the history of birth, women have not been lucky enough to have any support. Women have given birth in the most appalling conditions known to humankind. Often, as a direct result of the actions of other components of humankind, women have given birth in concentration camps. They have given birth while being refugees streaming away from an area of famine and going to potentially an area of relief.

In every possible condition, women have given birth. Oftentimes, midwives, under whatever name they have been called, have been there to provide physical and emotional support for the process of birth.

It is quite interesting because there is no more natural process than the process of giving birth. No process that we have ever evolved is more natural, unless it is the process of breathing, but it is a completely natural process. On the other hand, it has always been fraught with danger for women and for their children, so while it is the most natural thing in the world, for humans at any rate, for human women and their children, it is also one of the most potentially dangerous and life-threatening processes, so we have a real interesting dichotomy here.

It is not like the sea turtle—I saw a bit on television a couple of weeks ago, of a mother sea turtle and she gives birth to literally millions of young, just spews them out. With luck, one or two of them will—or

loggerhead, loggerhead turtles—actually live to come back to the spawning ground and carry on the process.

Humankind has evolved slightly differently. Whether you agree with the biblical story of Adam and Eve, where God punished Adam and Eve for their transgressions by saying you will be born in pain and you will live in misery and this kind of thing, whether you agree with that definition or explanation for the process of the difficulties inherent in the process of birth or a more naturalistic, evolutionary process, the reality is that throughout our history birth has been, while a wonderful, beautiful, natural process, it is also a terrible, deadly process or can be. Midwives have performed a wonderful essential service in the caring of women and their children throughout our history.

Midwives, and I do not pretend to know the history of midwives in any detail but I do know that up until very, very recently women gave birth at home. They gave birth in the fields. They gave birth on roads. They gave birth in concentration camps. As I have said, they have given birth whenever nature said you will now give birth. It was only a tiny little pinprick of human history that women have given birth away from their homes, ideally. Only in part of human history, only in one geographical area of the world do women, by and large, not give birth at home, if they have a choice. So we are talking here about a very, very small segment of human history and a very small segment of current human history, the medicalization of the process of birth.

On the one hand, personally, I support the concept that birth, a natural birth, is the best possible process for a woman and her child to undergo. All things being equal, I personally think a home birth with family and friends and a midwife surrounding the process is the best possible thing to have happen.

Of course, there are complications that arise as there always have been in birth. It seems, parenthetically, that nothing women are involved in doing comes easily. So, on the one hand, while the ideal is a natural home birth, the recognition has taken place in western medicine over the last hundred years perhaps that—the recognition, I would say, but the process has evolved in western medicine that birth is not a natural process, that birth is a medical condition. It is the

illness model carried to, in some cases, a very illogical extreme. It is saying that while there are some situations where the birth process is traumatic for the mother and/or the child, the medical profession has and the society has said, while there is a proportion of births that are problematic, we will make all births take place in a hospital setting because that is the way it should be.

* (1050)

I think we are moving back toward a more balanced approach, and this legislation, while we may have some concerns with it—and I am certainly not saying that we are supporting this piece of legislation in its entirety—at least it is a recognition of the role of midwives and the role of the natural process of birth that I think is very important.

Again, it is very hard to know what will be a natural birth. In some cases women have had to have complete bed rest for virtually the entire gestation period. I have known a couple of women where this has been the case, and it has been a horrific experience for them while they have undergone this process, but at the end of the day, through the marvels of modern medical science, they have been able to have a birth and have a child. That is the miracle, and that is the wonder of our modern system.

On the other hand, I have known of women who have had very invasive procedures take place, unnecessary procedures take place just because it was the medically determined thing to do. If you were pregnant, this is what happens to you. In most cases it is not necessary even as a precautionary measure.

So I think that what this bill will allow if it goes through and if the people who come before the public hearing process and all of the stakeholders have been adequately represented, hopefully what this bill will allow is for that balance to take place, for the recognition that while there are dangers for mothers and their children, there needs to be a balance for those women and children who have had normal pregnancies and have every expectation of having a normal delivery.

I think what we need to do and perhaps what passage of this bill and understanding of the role of midwifery

will help us do as a society, is redefine what the term “normal” means in the context of the birth process, the pregnancy and the delivery and the post-partum process, and that is that women by and large are designed physiologically to go through the birthing process, the pregnancy and delivery process naturally, by and large because there are some situations that it is necessary to have medical intervention for. But I think, as I have said earlier, that we have gone too far the other way in saying that the process of pregnancy and delivery on post-partum issues are not natural, or while they are natural, they have to have a medical intervention.

I think parenthetically, as well, that the reduction in the time that women stay in hospital, 24 hours or 48 hours or whatever it is at this point, is by and large a positive thing. I think there have been instances where the cost factor may have played too much of a role, and some women have been sent home from hospital after 24 hours when perhaps they should have stayed in hospital for a little longer or at least have had more public health nurse participation when they have gotten out of hospital.

I know when my daughter was born 30 years ago, the normal stay was five days. Five days is a very long time, especially if you had a normal pregnancy and a normal delivery and a normal healthy baby. There was no reason then and there is no reason now for that kind of hospital stay. So we have moved forward, and I think this is one of the reasons why the legislation can come forward now, is that society as a whole is more attune to that.

We do, Mr. Acting Speaker, have some concerns that we want to raise with regard to this bill or to the process. We want to make sure that there is full public input. We have concerns about the access to services, particularly in rural and northern areas. We have to ensure, as we have to ensure in all other areas of health care, preventive and interventionist, that access to service is as equally available in rural and northern areas as it is in the urban areas. We need to ensure that there is support for educational opportunities to train midwives. My understanding is that the college will be determining some of the issues around the definition of midwives and what is the role of the traditional midwife

going to be after the establishment of this piece of legislation.

We have to recognize, as we have to recognize in Manitoba in every bill that we debate and pass, the unique characteristics of our province, the geographical characteristics where two-thirds of the population of the province of Manitoba lives in the Capital Region within, I would say, a half an hour of the Health Sciences Centre, the tertiary hospital. Two-thirds of Manitobans live within that hospital's ambit, but the other third live in a variety of areas. Some of them live in the other urban areas such as Dauphin, Brandon, Thompson, Steinbach, Altona, Morden. There are pockets of urban communities throughout the rest of the province, but we have an enormous geographical area that is very sparsely populated, and we have spoken in this House time and time again about the fact that those areas have as urgent needs and maybe, in many cases, more urgent needs for good medical and health attention than even the urban centres do.

So the training and implementation of this bill and the midwives who will be trained and licensed and sent out from the province, throughout the province, we have to ensure that every woman in the province of Manitoba has adequate access to midwives, as we have to ensure that they have adequate access to the rest of the health care system. Most importantly, I envisage a good implementation of this legislation in enabling the vast majority of women who have normal pregnancies, who expect to have normal deliveries and normal children, to be able to experience the wonder of birth with their families through an expanded role for midwives.

As I have stated, and I will conclude my remarks, Mr. Acting Speaker, throughout history, recorded and not recorded, midwives or that role of midwife has played an essential service and has been an essential component of the birthing process, of the pregnancy, birthing and post-partum process.

It is a wonderful thing that we are starting in Manitoba, later than many other provinces, but we are starting in Manitoba to recognize that. I commend the government in its process of consultation in this regard and hope that with some of the concerns that I have raised and others will raise being addressed adequately, this is a first step toward the recognition of the positive role that midwives have played in the history of humankind and hopefully that they will be able to play again.

Thank you, Mr. Acting Speaker.

The Acting Speaker (Mr. Tweed): As previously decided, this proposed motion will remain standing in the name of the honourable member for Transcona (Mr. Reid).

* * *

Mr. Ashton: I believe there may be a will to call it twelve o'clock.

The Acting Speaker (Mr. Tweed): Twelve o'clock. Is there agreement? [agreed]

The House is now adjourned and stands adjourned until 1:30 p.m. Monday.

LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, May 1, 1997

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