

## THE LEGISLATIVE ASSEMBLY OF MANITOBA

2:30 o'clock, Wednesday, March 30, 1966

Opening Prayer by Madam Speaker.

MADAM SPEAKER: Presenting Petitions

Reading and Receiving Petitions

Presenting Reports by Standing and Special Committees

HON. R. G. SMELLIE, Q. C. (Minister of Municipal Affairs) (Birtle-Russell): Madam Speaker, in the absence of the Honourable the Provincial Secretary, I would beg to present the first report of the Special Committee on Highway Safety and Highway Administration.

MR. CLERK: The Special Committee on Highway Safety and Highway Administration beg leave to present the following as their first report: Your Committee met on Tuesday, March 15, 1966, on Thursday, March 17, 1966, on Thursday, March 24, 1966 and on Wednesday, March 30, 1966. Your Committee has considered Bill: (No. 5) - An Act respecting Travel on Highways and the Operation of Vehicles thereon. And has agreed to report the same with certain amendments. Your Committee recommends that the Legislative Counsel be authorized to re-number the sections and cross-references of the Act which require re-numbering as a result of amendments recommended by your Committee. All of which is respectfully submitted.

MR. SMELLIE: Madam Speaker, in the absence of the Provincial Secretary, I move, seconded by the Honourable the Minister of Labour that the report of the Committee be received.

MADAM SPEAKER presented the motion and after a voice vote declared the motion carried.

MADAM SPEAKER: The adjourned debate on the proposed motion of the Honourable the Attorney-General. The Honourable the Member for St. John's.

MR. S. CHERNIACK, Q. C. (St. John's): Madam Speaker, when this Committee met on March 28th, it was my first meeting as a member of this Committee in its regular work and I was not familiar with its purpose nor its procedure. It was called for 9:30 and I confess that I was ten minutes late and I thus missed about 16 percent of the time which the Committee took to deal with the matters before us, I was somewhat surprised as to the nature of the investigation made by the Committee and that is why I asked that it be stood over so I could confirm in my mind the principles which were to be followed.

I obtained a copy of the principles from the Clerk of the House and although it does not contain the authority upon which these principles were established I don't for a moment question the fact that if he gave them to me then they were established as being the principles, and I would only like to read a short excerpt from it. Principle (a) states that the regulations should not contain substantive legislation that should be enacted by the legislature but should be confined to administrative matters. Subsection (d) - A regulation should not impose a fine, imprisonment or other penalty, or shift the onus of proof of innocence unto to a person accused of offence. Well, Madam Speaker, when we met the other day we were presented with this book which contains a number of pages which are not quite consecutive so I don't think I can tell you how many there are, but it's a goodly tome. We received the benefit of a report from the Legislative Counsel to the effect, I assume, to the effect that he had reviewed these regulations and that he felt that there were I think four which in his opinion required review and the review was made and I think almost in all cases his recommendation was accepted. But that doesn't matter. The fact is these four matters were dealt with and at the end of that I received the impression that that was the end of the work of this committee except for other matters that might be referred to it.

Well, Madam Speaker, I glanced through this, I leafed through it during the meeting and found certain items which seemed to me to be substantive enough to warrant a legislative look at it and yesterday after I adjourned debate I did leaf through more of them but certainly not through all of them, and it was just a superficial examination. I'm told that until about four years ago there never was a committee that was charged with this responsibility and that the creation of this committee and the work given to it was a very worthwhile effort. I certainly agree with that, and I'm certainly not looking for work by any means, but it seems to me that these regulations ought to be looked at at some time or other. When my caucus awarded this task to me I received the impression that it was an in-between Session task where the regulations are looked at, but from the meeting that we held I did not come to that conclusion.

Now I find for example Manitoba Regulation 42 of '65 which deals with the Agricultural Credit Corporation, that there's an interest rate established, of 6 percent on loans; that's

(MR. CHERNIACK, cont'd) . . . there's an interest rate of 4-1/2 percent established on loans to young farmers and that interest rate to be charged when a supplementary loan is granted at a different interest rate than that applicable to the original may be set up in a certain manner. I did not look to see whether the Act actually dealt with interest rates or the exact amount but it seems to me that this is a pretty substantive matter once interest rates are established.

I found at the meeting itself that there was a minimum wage established for taxicab drivers under Manitoba Regulation 45 of '65 which set a minimum wage of \$45.00 per week plus 80 cents for each hour in excess of 54 hours, and a quick calculation showed me that apparently it was about 83 cents an hour for the first 54 hours and then 80 cents an hour after that, which is a reduction actually; and by looking further we found that the minimum wage which was raised to 85 cents was passed by Regulation 102 of '65, that is in October, whereas the taxicab minimum was May 20th, so that apparently at the time the taxicab rate was established it was in excess of the minimum wage when the Minimum Wage Act - Employment Standards Act was provided for where the minimum wage was increased then it became in excess of the taxicab drivers, and it occurred to me that this is something that a legislator ought to have an interest in.

Leafing further I found that again under The Mines Act, Regulation 46 of '65, "that the cash deposits shall be forfeited to the Crown if the holder of the reservation fails to provide evidence that during the period of the reservation or renewal thereof and expenditure satisfactory to the director was made for the purpose for which the reservation was granted." Now I see no provision there for appeal and it seems to me the onus of proof then is put on the person affected because it is the director who must be satisfied, and it seems to me that's a matter that ought to be looked at.

I leafed further and I found in Manitoba Regulation 52 of '65 under The Forest Act the following; No. 7 - "Any person who violates the provisions of Section 6, in addition to any other dues payable under this regulation is subject to and shall pay the appraised rate of dues with respect to the timber cut in the area in which he has failed to dispose of the brush." And Section 19 (d) reads "that the bond which has been posted shall be subject to forfeiture in the event the licensee violates the provisions of the act or regulations or the terms of his license." So there we have a forfeiture which sounds to me like a penalty. Again the same regulation, 52 (b) reads "that in the event of failure to comply he is subject to and shall pay dues, and in addition to such dues one percent of the amount of the dues payable for every month or part thereof for late filing or submission of returns." Well that to me is a penalty which is a matter that should be looked at.

On the next page under 56 (4) it reads: "The director may order that operations be suspended until conditions as he may see fit to impose are met." Well, that seems to give him power.

Now, 64 Subsection (2) reads: "Any person who without lawful authority removes timber that is seized may, unless the director or otherwise orders, in addition to any other penalty prescribed by law be assessed and be required to pay an amount equal to four times the appraised rate of dues with respect to such timber." Now, if that isn't a penalty, I don't know what is. You'll be glad to know that I didn't go much further, except that I did find another regulation that dealt with the organization of an operating committee under the Oil and Natural Gas Conservation Board which establishes the -- oh, rules of procedure and how much a quorum is and what the amount of a vote there has to be to carry out the decisions.

Well it seems to me, Madam Speaker, that if we have a committee then we ought to, once given the responsibility of looking at the regulations, we ought to do it rather than leave it to the Legislative Counsel who is a highly competent person and in whom I have the utmost respect to do this, but surely if it's his job to do then our establishment of the committee ought to be to say the Legislative Counsel shall review and report. But that's not my understanding - my understanding is that when this vote carries, as it probably will today, that it's the committee that reports that it has reviewed the regulations and has comments to make. The wording of the report says that the committee met and considered certain of the regulations referred to it. Well, that's true, it did consider certain of the regulations, but the impression that I received was that by doing so we had wound up this part of the work; and if we did then I can only say I'm sorry because it seems to me that in just leafing through it I found that certain principles to be followed by this committee were not followed in that I think that I found substantive legislation and regulations which did impose, I believe, a fine or other penalty and did shift the onus of proof.

(MR. CHERNIACK, cont'd) . . . .

Now, I did not, I admit, look at the Act which permitted the regulations to be established and it may well be that they repeat the Act, in which case they're redundant, but if they actually set up new penalties then it is a further warning to us to be very careful in approving of bills which contain in them the power to the Minister or to the Treasury Bench or to the Lieutenant-Governor-in-Council to make regulations, rules and regulations, which carry with them the effective law and which do not have the benefit of review by members of the Legislature.

MR. J. M. FROESE (Rhineland): Madam Speaker, I too, wish to make a few comments in connection with the regulations before us and I too would like to refer to the principles that have been set up for the committee on Statutory Regulations and Orders, and under (d) which has already been mentioned, which states "A regulation should not impose a fine, imprisonment, or other penalty, or shift onus of proof of innocence onto a person accused of an offence." In my opinion, Regulation No. 95 of 1965, which is a regulation under The Natural Products Marketing Act and respecting the establishment of the Manitoba Vegetable Marketing Commission, I think does this because as growers of vegetables, they will now, under these new regulations, have to sell and dispose of all their products through the Marketing Commission; and they, The Marketing Commission, have made further regulations which, in my opinion, place a penalty on the production of vegetables in this Province, and that producers can only dispose so much of their crop. They have made restrictions which, in my opinion, is a direct penalty on the producer. And further it states here, "or shift onus of proof of innocence." Now, under those regulations set up by this board, to which certain powers have been delegated, there is also the matter of proof of innocence has to be then established by the producer. The inspector can go out and make charges and the producer does then have to prove his innocence. I think these are matters that should be looked into much more closely, and I certainly could not approve of this particular regulation.

We also note under (G) that, and I quote, "the regulation should not make any unusual or unexpected use of the delegated power". This, I think has been done, too, by this Commission in setting up the regulations that they are working under. I think these are unexpected powers and unusual powers that they are exercising, and I for one am not in accord with those regulations. I can produce them at some later date. I haven't got them with me at the moment, but they're far too wide reaching. They are placing a penalty on the producer, and I am not in accord with it.

HON. STERLING R. LYON, Q.C. (Minister of Mines and Natural Resources) (Fort Garry): Madam Speaker, in view of the fact that the Chairman of the Committee has exhausted his right to speak in this particular debate, perhaps a word or two should be said in connection with some of the remarks made by the Honourable Member for St. John and the Honourable Member for Rhineland.

The Committee in question was set up some four years ago for the purpose, the very desirable purpose, of having a legislative review of the field of delegated legislation. I think this is the first legislature in Canada to establish such a Committee. I know that the Province of Saskatchewan sent emissaries down here on one occasion to watch the operations of the Committee; to look over the terms of reference and the principles under which the Committee operates to see whether or not it would be duplicated in their province, I do not have knowledge as to whether or not they followed through on this or not. In Australia, I believe they have such a Committee in connection with their Federal House, and I know that in Britain there have been similar committees set up for the purpose of reviewing delegated legislation.

I can only attribute some of the remarks of the Honourable Member from St. John's to his recent familiarity with the Committee and perhaps to his lack of knowledge of how this Committee has functioned over the last four years, and what its purpose is. A number of these points that he has raised today were raised in the Committee yesterday, and I believe the Honourable Member for Lakeside and myself tried as much as we could to instruct him, but apparently the instructions didn't reach home, and I can only suggest to him that after he has had the privilege of serving on the Committee a little longer perhaps he will understand the principles under which it operates a little bit better than he does at the present time.

The purpose of the Committee is not to review the substance or the policy of regulations, but rather is to determine whether or not the regulations are passed pursuant to proper statutory authority; and that they do not offend against one of the several principles that have been laid down such as fines, imposing or shifting the onus of proof so on and so forth. These are too numerous to mention because I believe the terms of reference run over a page or two.

(MR. LYON, cont'd) . . . . It has been the practice of the Committee, since I have had any relationship with it, to request the Legislative Counsel, armed with these terms of reference, to make a study of each regulation which is passed, printed in the Manitoba Gazette, in order to determine whether or not he feels that there should be brought to the attention of the Committee any sections which might possibly offend against any of the principles that are laid down. This is not a bad or a regrettable delegation of the Committee's responsibility, in fact I think it is a very wise thing to do, because no one in the government service is more or better equipped to look at these matters than is the Legislative Counsel.

It is in the course of this review that he then brings forward to the Committee, a precis or a short report of the regulations that he has found that he feels may possibly offend against the principles which the Committee is established to look into. Now that doesn't prohibit any member of the Committee from making this review himself. In fact from time to time I am sure all members of the Committee as they receive the Manitoba Gazette week by week, do look at the regulations and do concern themselves. Almost unconsciously now I find I do by looking at sections which might possibly offend against the principles that have been laid down.

So I can tell my honourable friend, I can assure him, that the Committee, as indeed he was assured yesterday, that the Committee is not bound only to accept the report of the Legislative Counsel. The Committee certainly can receive information from any member who feels that there may have been any omissions in the precis or the working paper that has been presented by the Legislative Counsel. In fact that would be the duty of each member of the Committee to do that if in fact he found such a section existing.

We have, this year, at yesterday's meeting, received a short report from the Legislative Counsel. Other members of the Committee who were on in its initial years will remember that the report used to be quite long because in those days the number of errors or the number of transgressions of certain of the principles was much greater, and far from leaving any implication that because the Legislative Counsel's report is short, that therefore not a good job of review has been done, I would suggest to my honourable friend that the experience of the Committee over the past four years, and the experience of the various departments of government over the past four years, working with the Committee, and making corrections in regulations is now beginning to bear fruit, and departments and departmental officials, and Ministers, even Ministers, are beginning to realize now what these principles are, with the result that I think you will find that the regulations that are promulgated from time to time, do follow much more rigidly than was the case in the past, the principles that have been laid down, and I think this is a very commendable reaction of government departments to the policing work that has been done by this Committee.

Now having said all of that, I can assure my honourable friend from St. John's, Madam Speaker, that the Committee will be meeting again, and if there are any matters that he wishes to raise, that he feels are offensive to any of the principles that are enunciated as the guide rules for the Committee, he of course is free to raise them, and they will be dealt with by the Committee. So the debate we have had today may not be entirely in vain because I want to assure my honourable friend that that is the desire of the Committee and the purpose of the Committee is to uncover any one of these that may possibly infringe against these principles. We are delighted to find that we are going to have such a keen viewer as my honourable friend from St. John's, on the Committee, because I am sure his contribution will be of great assistance to the rest of us if he reviews each of these regulations as they are passed.

The same explanation was given to my honourable friend from Rhineland who, while not a member of the Committee, sat in on the Committee's proceedings yesterday, and there is very little else that I can add to his remarks. But I do say that it is the desire of the Committee, it always has been, and I am sure this would be reiterated by the other members of the Committee from all parties of the House, to look into any regulation that may be possibly thought to offend. In fact, from time to time I have seen the present Legislative Counsel and his predecessor, raise matters that sometimes you would have to stretch your imagination to contemplate as being possible infringements, but nonetheless, their review was so careful, that they wished these matters to be brought before the Committee and discussed in any case; and brought before the Committee they were, and discussed they were, and very often the report of the Committee encompassed the recommendation from the Legislative Counsel, and of course, once the report is received it is then concurred in by the House and the direction given in the report is then sent as a direction by the House to the department concerned to make the correction in the regulation. And that action is taken each year following upon this report.

(MR. LYON, cont'd) . . .

So I am sure that as my honourable friend becomes more familiar with the work of the Committee he will see that what he might consider to be a short meeting, is really an important meeting, and that what he considers to be, at the present time perhaps, a quick overview by the Legislative Counsel, he will find is in fact, a study in depth that has been made by the Legislative Counsel, and that furthermore, review that can be made and should be made by individual members such as himself are most welcome because I am sure everyone on the Committee wants to make sure that they do their work properly.

So I make these few remarks at this time to indicate to my honourable friend (a) that the purpose of the Committee is a good purpose and a sound purpose; and (b) that in my estimation as a member of the Committee since its inception, I think the committee has carried out its instructions extremely well in accordance with the principles that have been laid down for it by this House.

MR. DOUGLAS L. CAMPBELL (Lakeside): Madam Speaker, it isn't in character for me, I am afraid, to be appearing to rush to the defence of the government, and perhaps I shall be able to get back into my traditional role before I finish, but at the outset, I would like to say that on this matter I agree very largely with what the Honourable the Minister of Mines and Natural Resources has just said. If that also is too far out of character for me, then I plead only the excuse that the Honourable Minister and I, I believe, have been on this Committee since its establishment, and the one compliment that I can pay to the government in this regard is that I think it was a good move to establish this Committee.

Now as to the imperfections that exist in the conduct of the Committee, I plead as guilty as anyone else. I do not make a practice of reading all of these regulations. I suppose that theoretically I should do so as a member of the Committee. Well I don't; and I want to say in that connection however, that there's nothing in the world to prevent my honourable friend from St. John's reading them all if he wishes to do so. In his case it would be much more effective for him to read them, than for me to do so, because he has the benefit of a sound legal training and he would be in a position to decide on their merits very well. There's nothing to prevent the Honourable the Member for Rhineland from reading them because I am sure a copy of them would be furnished to him on request. But I don't read them. The main reason is that I just don't seem to find the time when the Session is on and this is the time that we're expected to deal with these is at the end of the year. I suppose we could get them earlier if we asked for them, but the main reason that I don't read them is because I recognize the fact that the Legislative Counsel is much better equipped to deal with them than I am; and inasmuch as it is provided that he will do that job - and I think he does it exceptionally well - then it seems to me that's the sensible way to do it. But if I had any doubt about any particular regulation, as the Honourable Member for Rhineland has, then I would pay some attention to that particular one, or to the one dealing with that Act under discussion.

Now, I think the point that should be made here, Madam Speaker, though, is not just the conduct of this Committee, I think the present way is a good one, but I certainly do urge that any member of it or any member of the House who is interested in a particular act or the operations of the department thereunder should make it a point to get the regulations under that Act and keep well informed on them. But outside of that, I think the real point to be made here, and the reason that I think this debate is worthwhile, is that it gives me the opportunity once again to issue a warning and a plea - a warning to the government that they should keep down to the absolute minima the numbers of things that are delegated legislation. Just as far as possible we should I think reverse the trend that has been growing - and I admit that it was prevalent in the time of the predecessor government. That government appeared to be the one that had all the faults anyway, so I may as well admit that it offended in this regard as well. And I protested against it even then, I recognize that there's some places where you have to give the authority to the Lieutenant-Governor-in-Council to pass regulation. This is true. I think that should however, be kept to the absolute minimum. The more times that we have the legislation itself say exactly what we intend shall be done, the better it will be in my opinion.

And then the next thing to that I think is that while keeping the matters that can be dealt with by the Lieutenant-Governor-in-Council to a minimum the next one is that I think we should completely desert the practice that has obtained at times of having the Minister, one person, the Minister, no matter how good he is, make decisions that also carry the effect of legislation. And then even more than that one again, do I object to the principle of delegating to un-elected boards and commissions the authority to do this. We folk who sit in here no matter what our failings in many regards - and as I look across the interval here, Madam Speaker, I can see

(MR. CAMPBELL, cont'd) . . . ones that certainly have their failings, but no matter what the failings we have, at least we were elected to come here and we're elected to carry on the business of the province. But when you go beyond that and start handing over to un-elected boards and commissions and people, the authority to make these regulations, I think is so much the worse.

So I just had to arrive at the place, Madam Speaker, where I would get in some criticism of the government, and my criticism in that regard is that instead of reversing the trend, which I admit has been growing through the years, they have I think accelerated it. So that inasmuch as we're likely to continue to have this system of delegated legislation I think first we should look at it very very carefully at all times. But then next to that it's right to have this Committee - it's right to have such a Committee as this and the more work that the individual members will do on it the better; but as far as I'm concerned, having passed the years when a man is supposed to labour so diligently, I'm going to continue to leave it pretty largely to the legislative counsel to exercise his talent in this effect and then confine my attentions pretty well to his report. And I think he's been giving very very good reports in this connection.

So, Madam Speaker, I agree with what has been said by the Honourable the Minister of Mines and Natural Resources that perhaps it's good for all of us that this debate has arisen. I share the view with him that the reason that we have had fewer criticisms or recommendations by the legislative counsel is because the action of this Committee over the years - and for that action I give the credit mainly to the legislative counsel - has resulted in the Lieutenant-Governor himself and the departments who operate under him being educated by the process that has been invoked. So as a member of the Committee I think that we're doing some useful work and I would recommend to all the other members that they continue to exercise their own authority to look at all of the regulations, if they so desire.

MR. FROESE: Madam Speaker, on a point of Order. Did I hear the Minister correctly when he implied or inferred that I was not a member of the Committee?

MR. LYON: Speaking to the point of Order, I thought the honourable member was not. If he is, fine.

MADAM SPEAKER put the question and after a voice vote declared the motion carried.

MADAM SPEAKER: Notices of Motions.

Introduction of Bills.

Before the Orders of the Day, I would like to attract your attention to the galleries where there are some 110 Grade XI students from Glenlawn Collegiate under the direction of Miss Quinn, Messrs. Garten, Scott and Wilson. This school is situated in the constituency of the Honourable the Member for St. Vital. And in the Speaker's Gallery there are some 20 fishermen who are taking the Fishermen's Technical Short Course conducted by the Department of Mines and Natural Resources. These gentlemen come from all parts of the province; some come from as far north as God's Lake and Pukatawagan. On behalf of all members of this Legislative Assembly, we welcome you.

MADAM SPEAKER: Orders of the Day.

MR. HUTTON: Madam Speaker, before the Orders of the Day, I would like to announce that the Department of Agriculture will provide a bus to enhance our annual visit to Brandon, the City of Brandon and -- (Interjection); -- Pardon. -- a conveyance. The bus will be out here at the front of the building at 9:30 in the morning and we'll be leaving Brandon following the evening show which is usually about 11 o'clock.

I think it's a very good idea for all of us to forget the matters of this Chamber here and to spend a few hours together in fellowship. We hope by providing a common vehicle for everyone we can contribute to making the day very enjoyable. The people in Brandon are always very hospitable. Again this year, when we arrive there will be a luncheon waiting for us and dinner will be served to the members of the Legislature compliments of the Directors of the Brandon Winter Fair. I trust that when Friday morning comes that all, or as many as possible, will turn up and take advantage of the opportunity to see "the best Winter Fair in Western Canada."

MR. GILDAS MOLGAT (Leader of the Opposition) (Ste. Rose): Madam Speaker, I'd like to address a question to the Minister of Industry --(Interjection)-- Oh, I'm sorry.

MR. R. O. LISSAMAN (Brandon): Madam Speaker, it occurred to me while the Honourable Minister of Agriculture was speaking, otherwise I wasn't going to say anything at this point, that since there are some members going by car there may be a little confusion on arrival as to where they should congregate and I would suggest that if they all congregate

(MR. LISSAMAN, cont'd) . . . when they arrive in Brandon, at the Prince Edward Hotel, we would probably avoid that initial confusion.

MADAM SPEAKER: The Honourable the Leader of the Opposition.

MR. MOLGAT: Madam Speaker, I would like to address a question to the Minister of Industry and Commerce. Has a careful enquiry been made by the Manitoba Government into the background of the firm Monoca A.G. ?

HON. GURNEY EVANS ( Minister of Industry & Commerce) (Fort Rouge): Yes, Madam Speaker.

MR. MOLGAT: Could the Minister indicate who are the people behind this firm?

MR. EVANS: I'll be prepared to make a full statement on that in my estimates.

MR. S. PETERS (Elmwood): Madam Speaker, before the Orders of the Day, I'd like to ask the Minister of Industry and Commerce are we to put in an Order for Return dealing with the announcement of the pulpmill and the sawmill and the rest of the industries supposed to be up in the north. When can we expect this return?

MR. EVANS: I'm not sure which Return my honourable friend is speaking about. -- (Interjection) -- I think there were a number of them and I enquired the other day and gave instructions that those that could be completed more quickly be brought forward, and I hope very shortly that the one containing, for example, the copy of the agreement and others will be presented. The others that require some information to be compiled may take a few days. And that's about all.

MR. PETERS: A supplementary question. We will have all this information in front of us before we get to your estimates?

MR. EVANS: Well, I'm not quite aware when the estimates will be here. I can't give you a guarantee because I can't really tell exactly when the full set of returns will be available; but I'll get them if at all possible before my estimates start.

MR. MOLGAT: Madam Speaker, I wonder if the Minister could explain the statements that appeared in print yesterday that one of the leading German newspapers "The Frankfurter . . ." had conducted an enquiry in Switzerland regarding the background of this Company and apparently could find no trace or record or register of the Company concerned.

MR. EVANS: I have no knowledge of the facilities of that newspaper at all.

MR. NELSON SHOEMAKER (Gladstone): Madam Speaker, before the Orders of the Day are proceeded with I would like to direct a question to my honourable friend the Minister of Education. The Minister announced the other day that Teacher's College tuition fees were going to be abolished. Does this also apply to a university students who intend to ultimately acquire their Bachelor of Education Degree or Masters in Education?

HON. GEORGE JOHNSON (Minister of Education) (Gimli): It includes Education 1 and 1-A. Education 1 is the faculty post BA.

MR. SHOEMAKER: Madam Speaker, I would like to direct a question to the Minister of Health in respect to the amount of money that a person pays for semi-private or private ward care. What portion of it is retained by the hospital and what portion of it is credited to the Manitoba Hospital Commission account?

HON. CHARLES H. WITNEY (Minister of Health) (Flin Flon): Madam Speaker, I'd like to take that question as notice please.

MR. STEVE PATRICK (Assiniboia): Madam Speaker, I would like to direct a question to the Honourable Minister of Municipal Affairs. Will we be getting a bill this session for the Amalgamation of Brooklands with St. James?

Madam Speaker, one subsequent question. Is he aware if any member of the North Assiniboia School Division was present during any negotiations between St. James and Brooklands?

MR. SMELLIE: Madam Speaker, I was not present during any of the negotiations and I have no idea who was present.

MR. SHOEMAKER: Madam Speaker, I'd like to direct a further question to the Honourable the Minister of Health. When can we expect to receive the report of the Committee on Dental Services.

MR. WITNEY: The beginning of next week, Madam Speaker.

MR. MOLGAT: Madam Speaker, I'd like to address a question to the Minister of Agriculture. I have to preface a little bit because of the background of the question. I've asked on a number of occasions in the House about the supply of sandbags -- in fact very early when this was discussed, or the possibility of a flood was discussed, I asked if there were

(MR. MOLGAT, cont'd) . . . ample supplies and I was told "yes". Since then I have been getting some disturbing reports. For example, this morning I received a telephone call from a gentleman who tells me that he's the Chairman of a Diking Committee diking 21 homes outside of the dikes; that they need 2,800 sandbags, 1,500 a day if they're to be finished by April 15th, but that they've been rationed to 500 a day. Up to last night they had bagged 9,000 bags; they have enough volunteers to do the work but they cannot get sufficient sandbags. Similarly, I am advised that St. Vital Public Works can fill 70,000 bags a day, that their allotment from the Provincial Government is only 50,000 bags a day and that they need something in the order of 150 to meet their commitments, that there are over 500 people whose request for bags have not been filled and that some 200 have received nothing at all as yet. Now, this is very disturbing and I would like to know from the Minister exactly what the situation is.

MR. HUTTON: Madam Speaker, I'm going to refer this question to the Honourable the Provincial Secretary who has been doing the purchasing and who is familiar with the numbers of the hundreds of thousands of bags that are coming in each day.

HON. M. B. STEINKOPF, Q.C. (Provincial Secretary & Minister of Public Utilities) (River Heights): Madam Speaker, the situation with regard to the supply of sandbags is very satisfactory. The amount that is arriving daily is in excess of what the demands are. A system of priorities or use has been set up and by this time next week all the sandbagging should be completed and everyone should have ample sandbags; and at the same time we should have a fairly substantial bank of sandbags to rely on in the event of there being a greater emergency.

In the case of St. Vital, on Monday night the Mayor called me and said that he required 150,000 sandbags for the next day and I asked him if he could let me know how many he would require until the full operations that was contemplated in the St. Vital area was finished, how many were required, and he told me that 750,000 and he would give us a report the next day, which he did. On Tuesday we sent him out 50,000 sandbags which was what they anticipated they could use that day and later in the afternoon sent him another 50,000 or total of 100,000 on Tuesday; 100,000 have gone to him today. There is no shortage in St. Vital. At the rate that they are taking them now at about 100,000 a day, seven days from now all of the sandbagging will be complete, which is well in advance of the first date, the flood date of April 13th. This applies to every municipality and as far south as Emerson where a truck load of sandbags, some 110,000 were delivered yesterday just to be held in reserve in that area.

MR. MOLGAT: Madam Speaker, I take it then from the Minister that these people who have phoned me telling me that there is rationing of sandbags are not correct in their statements?

MR. STEINKOPF: This could be right, depending on what approach the municipality takes themselves. There has to be some rules or regulations laid down. If they didn't get them the moment that they asked for them they will get them in plenty of time before they're actually required in lots of time to get them filled and also put up.

MADAM SPEAKER: The Member for Portage la Prairie.

MR. G. E. JOHNSTON (Portage la Prairie): Madam Speaker, I'd like to address a question to the Minister of Highways. When can we expect to receive the map containing the traffic count information that he has promised the House?

HON. WALTER WEIR (Minister of Public Works) (Minnedosa): I have no word yet, Madam Speaker. I would hope very shortly.

MR. ELMAN GUTTORMSON (St. George): I'd like to address a question, Madam Speaker, to the Attorney-General. What is the salary paid to Maurice Arpin and his special Council on Crime?

HON. STEWART E. McLEAN, Q.C. (Attorney-General) (Dauphin): There is no salary, Madam Speaker. He will be paid on a fee for service basis.

MR. GUTTORMSON: Well, what does that - what amount is going to be paid him? Surely he must have come to some agreement before he took the job, didn't he?

MR. McLEAN: Well, we have a procedure whereby the accounts of solicitors and council are taxed according to a schedule that operates in the Department of the Attorney-General.

MR. GUTTORMSON: How much has he been paid so far?

MR. McLEAN: Nothing.

MADAM SPEAKER: The adjourned debate on the proposed motion of the Honourable the First Minister. The Honourable the Leader of the Opposition.



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

MR. EVANS: On a point of Order, I wonder if any other member would care to speak if my honourable friend is not prepared to speak. This is the fifth sitting day. There are a total of eight sitting days in which this debate must be completed and I just draw that to the attention of the House.

MADAM SPEAKER: Any other member wishing to proceed?

MR. MOLGAT: I have no objection, Madam Speaker, to any other members wishing to proceed. I might inform the House that I did check with the other two parties involved, in fairness to them, because I did not want to hold them up before asking for the standing.

MADAM SPEAKER: The adjourned debate on the third reading of Bill No. 44. The Honourable the Leader of the Opposition.

MR. MOLGAT: Madam Speaker, we've had some discussion on Bill 44 on second reading when we opposed it, outlining our reasons for opposing the bill. We are not opposed to having the financial changes that the government requests, but we do not feel that the government has made a case for adding to the numbers on the Board. In fact when the resolution introducing this bill was first presented to the House at the committee stage there was nothing said at all at that time about adding to the board. The only comments then were with regard to increasing the borrowing powers of the Telephone System and if this is required for the business purposes certainly we are all in favour of allowing them to do this. If it will mean that they can do their borrowing cheaper then certainly this is in the interests of the province.

We have seen no case, however, made by the government for an addition to the members to the board and from the questions that we have asked the Minister regarding whom he intends to put on that board, the questions and the answers virtually indicated to us that it was going to be used by the government for political purposes. The Minister had every opportunity to make a change in his statement. I asked him again the other day, but he persisted in saying that if they wanted to appoint ex-members of this House or defeated candidates or what they wish, that that is exactly what they would do. We feel that this is the wrong way to use boards. We will be prepared to accept an addition to the number of people on the board if the government can make a case for the need of it, provided they put in the Act that this is not to be for members of this House or past members of this House.

As I indicated in my first comments on discussing this bill earlier in the session, last year the government did its very best to bring in a pension plan for members of the Cabinet in particular and for members of the House. They were unable to get the plan through the House. They finally decided not to proceed with it the last day of the session after it had been vigorously opposed from members of my group. It looks to us now as if they are taking the back door approach to the problem and if they can't get anything that they want by way of pension then they're going to establish it by getting more people on boards.

We've asked last year and we've asked again this year for a list of all the boards and commissions and bodies set up by this government. We obtained such a list some four years ago now. It would be very interesting to get an up-to-date one. I would think in view of the fact that our request was in last year, was not replied during the last session, that the government had all the intervening time between May of last year and February of this year to produce the information, that this Order for Return should be before the House at any time.

The past report that we had back in 1962 indicated a fair sprinkling of political appointments throughout the boards. In fact we had the situation at the last provincial election where one of the boards was unable to function at all because all of the members turned out to be candidates. The board simply did not function for a period of time. We don't believe that this is a sound procedure for boards in the Province of Manitoba. I'm interested in seeing good management for our utilities, not political management, and I do not propose to support this bill on third reading.

MR. FROESE: Madam Speaker, just before the vote is taken I too wish to be put on record as opposing the bill on third reading for the very same matter that I feel that it is going to be used for political purposes, to put some people on the board that probably have served in some political way and that there's not the need for it as I can see it.

MR. GUTTORMSON: Madam Speaker, I move, seconded by the Honourable the Member for St. Boniface, the debate be adjourned.

MADAM SPEAKER presented the motion and after a voice vote declared the motion carried.

MADAM SPEAKER: Order for Return standing in the name of the Honourable the Leader of the Opposition.

MR. MOLGAT: Madam Speaker, I beg to move, seconded by the Honourable the Member for Ethelbert Plains, that an Order of the House do issue for a Return showing: 1. The Bills, and/or Acts, and/or the sections of Bills and/or Acts which have been passed by this House but have not been proclaimed since the First Session of the 25th Legislature up to the present session. 2. The dates on which the above Bills were passed by the House on third reading.

MADAM SPEAKER presented the motion and after a voice vote declared the motion carried.

MADAM SPEAKER: Order for Return standing in the name of the Honourable the Leader of the Opposition.

MR. MOLGAT: Madam Speaker, I beg to move, seconded by the Honourable Member for Lakeside, THAT an Order of the House do issue for a Return showing copies of all reports prepared by, or on behalf of, the Government of Manitoba, since 1959, regarding: a) redevelopment in the area east of Main Street and south of the CPR line; b) the Arts Centre location, planning and development; c) arterial route, parking, transit studies in these areas.

MADAM SPEAKER presented the motion.

MR. STEINKOPF: Madam Speaker, we'd be prepared to accept this Order for Return with the exception of those plans that are currently in process of being worked out.

MR. MOLGAT: Madam Speaker, I understand that that would be probably necessary if these plans are in fact of a confidential nature; if they are not of a confidential nature, I would hope that they could be included. I'd like to point out that this same request was put in last year at the session. The House did issue an Order for Return at that time and I imagine that the information should be available very quickly because once again the government has had ample time to get the information. The request goes back to 1959, so certainly the early material should be readily available.

MADAM SPEAKER put the question and after a voice vote declared the motion carried.

MADAM SPEAKER: Order for Return standing in the name of the Honourable the Member for St. George.

MR. GUTTORMSON: Madam Speaker, I move, seconded by the Member for Gladstone that an Order of the House do issue for a Return showing: 1. The total amount of Provincial Highway Contract No. HB 549 awarded to W.S. Sveinson. 2. The date on which the contract was awarded. 3. The dates on which this work was to commence and to be completed. 4. The penalties, if any, for non-completion. 5. Whether the penalties were applied. 6. The amounts paid to W.S. Sveinson and to others on his behalf and the dates on which they were made. 7. The amount of holdbacks retained by the Manitoba Government and the dates on which they were held back. 8. The disposition of these holdbacks showing the names of those to whom they were paid and the dates on which they were paid.

MADAM SPEAKER presented the motion and after a voice vote declared the motion carried.

MADAM SPEAKER: Order for Return standing in the name of the Honourable the Member for St. Boniface.

MR. LAURENT DESJARDINS (St. Boniface): Madam Speaker, I would like to move, seconded by the Honourable Member from Gladstone that an Order of the House do issue for a Return showing the following information in regard to the Manitoba Travel and Convention Association for each year since its inception up to and including 1965. (1) Amount of grants from the Provincial Government. (2) Amount of grants from the Metropolitan Corporation. (3) The number of paid up members. (4) The number of conventions secured by the Association. (5) The names of these conventions. (6) The annual budgets giving the breakdown of all salaries paid and expenses of all staff members.

MADAM SPEAKER presented the motion.

MR. EVANS: . . . can be accepted insofar as it refers to matters under the jurisdiction of the government.

MR. DESJARDINS: Madam Speaker, we think that the provincial government created this Board, or this Association, and certainly if they give a grant they certainly must have received the annual budget of the Association.

MR. EVANS: The government is responsible, as I understand it, for supplying information insofar as it is in the position of the government, and does not refer to private outside organizations. The Manitoba Travel and Convention Association receives a grant. It's a

(MR. EVANS, cont'd) . . . private -- well it's not a private, but an independent organization which receives a grant from the government. The amount of the grant of course, is a proper item for a Return.

MR. DESJARDINS: Madam Speaker, does that mean then the government will give grants without knowing anything of the work of the Association? Is that what the Minister is saying? . . . I say, Madam Speaker, I think that No. 2, the annual budget, should also -- or the last number certainly should be in order to receive that if we are giving grants. The people are entitled to know what is going on.

MADAM SPEAKER: Are you ready for the question?

MR. MOLGAT: Before the question is put, I wonder if I could ask a question of the Minister? When they do give grants to associations, do they request a budget from the association reflecting what is being done, or do they simply give grants without having any financial information on the association?

MR. EVANS: Well, my honourable friend has asked me a double-barrelled question. We do not ask for and receive budgets from the organizations that get grants from the government. The second one is that we satisfy ourselves as to the need for financial assistance before a grant is made to any organization.

MR. FROESE: Madam Speaker, I was going to adjourn debate but I think we should have an explanation on this. I think, as far as I was concerned, and I think other members are probably under the illusion, too, that this was a government-sponsored organization, that the Golden Boys and the -- at least I was under the impression, and if we are going to give them grants we should, I think, have an account of these grants that are being given as to the purpose and so on.

MR. EVANS: The purpose of the grants is not included in the Order for Return. If my honourable friend would like to have that information, if he will put in an Order I will be glad to answer it.

MR. GUTTORMSON: Madam Speaker, I move, seconded by the Honourable Member for Gladstone, that the debate be adjourned.

MADAM SPEAKER presented the motion and after a voice vote declared the motion carried.

MADAM SPEAKER: Order for Return standing in the name of the Honourable the Member for St. George.

MR. GUTTORMSON: Madam Speaker, I move, seconded by the Member for Gladstone, that an Order of the House do issue for a Return showing the details of all land and building appraisals made by, or on behalf of, the Government of Manitoba, of the properties involved in the Shellmouth Dam and Reservoir, showing in particular: (a) the date on which the appraisals were made (b) by whom appraisals were made, (c) the qualifications of the appraisers at the time the appraisals were made, (d) whether in all cases the appraisers were accredited appraisers, (e) what the basis of payment was (fee, per diem or what), (f) how much was paid for the work, (g) the description of the property appraised, (h) what appraisal values were indicated to the various parcels of land and buildings appraised.

MADAM SPEAKER presented the motion.

MR. HUTTON: Madam Speaker, we would be prepared to accept this. I would like to be certain that this is in respect to properties lying within the Province of Manitoba because there was some land purchased in Saskatchewan by the Federal Government. It's understood this would apply only to properties within Manitoba and, of course, subject to the conditions that none of this information is confidential or applies to negotiations now under way.

MR. GUTTORMSON: Madam Speaker, this Order was submitted last year and accepted as well as the one I read earlier, so I would expect that these Orders should be returned rather quickly in view of the fact that they were asked for last year, and I would expect they were prepared.

MADAM SPEAKER: Are you ready for the question?

MR. MOLGAT: Madam Speaker, I would like to direct a question to the Minister before the question is put in view of his statement. When he refers to land that was purchased in Saskatchewan by the Federal Government, I presume that in that case Manitoba did not pay any part of the purchase price. That is, that if it's purchased outside of Manitoba it was strictly Federal Government monies that went into it. If Manitoba money was, in fact, used for part of the purchase price, then I think that the information should be available in the same way to the House.

MR. HUTTON: The answer is that Manitoba -- the PFRA are building Shellmouth Reservoir and all costs are shared 50-50. To the extent that all costs are shared, yes, Manitoba is contributing to the cost of the purchase of land in Saskatchewan.

MR. MOLGAT: Madam Speaker, if I may, on the question. Then shouldn't the House be informed as to what has been purchased in Saskatchewan as well, if in fact Manitoba money has been used? The question here is really to do with the land that has been purchased on behalf of the Government of Manitoba, and whether it's in Saskatchewan or Manitoba, if we have paid part of it, then I think that the information should be available.

MR. FROESE: Madam Speaker, a supplementary question on this then. Who retains title?

MR. HUTTON: Madam Speaker, in respect to the request made by the Honourable Leader of the Opposition, then I would have to request a further condition that we get the required consent from Ottawa.

MADAM SPEAKER put the question and after a voice vote declared the motion carried.

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MR. EVANS: I wonder if I might ask the co-operation of the House at this point to permit the introduction of a Bill which might be classed as an emergency, having to do with the flood emergency, and if the House sees fit, to allow by leave the passage of all phases today as was done in the case of the snow clearing bill. If my honourable friends, Madam Speaker, would be willing to accord that privilege, then I would ask the Minister of Municipal Affairs to present the matter.

MR. MOLGAT: I would like to know what the Bill is, Madam Speaker, before committing myself to putting it through the House in one day. In principle, if it is an emergency, yes, but I'd like to know what the Bill is.

MR. FROESE: Same here, Madam Speaker. When the snow removal bill was presented the Minister informed us ahead of time, so it would be subject to what the Bill contains.

MR. EVANS: I assume that my honourable friends retain their right at any time to withdraw unanimous consent at any stage they feel it is necessary to do so. I feel we can count on their co-operation. If they think it's a proper occasion to put through this emergency measure, I feel sure we can count on the co-operation of my honourable friends to do so.

MR. SMELLIE: Madam Speaker, I move, seconded by the Honourable the Minister of Public Works, that Madam Speaker do now leave the Chair and the House resolve itself into a Committee of the Whole to consider Bill No. 107, an Act respecting the Construction of Dikes in Manitoba.

MADAM SPEAKER presented the motion and after a voice vote declared the motion carried and the House resolved itself into a Committee of the Whole with the Honourable Member for Winnipeg Centre in the Chair.

#### COMMITTEE OF THE WHOLE HOUSE

MR. SMELLIE: Mr. Chairman, His Honour the Lieutenant-Governor having been informed of the subject matter of the proposed Bill recommends it to the House.

MR. CHAIRMAN: The resolution before the Committee is: Resolved that it is expedient to bring in a measure authorizing the government and municipalities to construct, maintain, repair and remove dikes, whether primary or secondary, and flood protection works; and providing for the employment by the government of officers and employees for those purposes; for financial assistance being given to municipalities by the government for those purposes; and for the payment of the costs incurred for those purposes from and out of the Consolidated Fund.

MR. SMELLIE: Mr. Chairman, since the community became aware that there was some threat of a flood in this area this spring, the municipalities have been attempting to contact the owners of certain properties where it was necessary to enter to construct dikes for the protection of other properties, or perhaps even those same properties from flood waters. In many cases they have been unable to find the owner of the property, and it has been impossible in many cases to get any consent to this trespass upon the property for the purpose of constructing dikes. We are now rapidly approaching the time when it will be necessary to go in and take the necessary action, with or without consent, and this proposed Bill would give either the province or the municipality concerned the authority to construct dikes for the protection of properties in the areas likely to be flooded.

It would also provide - similar to the bill that was introduced for snow removal - it would also provide that so long as reasonable care was exercised, that neither the province nor the municipality, whichever is concerned, would be responsible for damages merely for the trespass to property, but they would be responsible for damages to buildings or vehicles on that property.

MR. MOLGAT: Mr. Chairman, I thank the Minister for his explanation. I think there will be some questions arising out of this because this is a little more complicated than just the matter of digging out the lanes, such as were involved in the previous bill. I can't think of anyone who would object to having a dike built if it is going to protect his property. The difficulties that might come up is to the after affects of the diking. In a number of areas it is possible that the diking may in fact have a long-lasting effect on the structure. For example, the possibility of bank slippage. If there is a high dike placed in a certain location and there should be slippage as a result and damage to the structures, then what would be the position of the owner? I think that this is a matter that would have to be clarified.

Similarly, at the present time there will be a problem in a number of areas with regard to notice to those people who inhabit residences that are going to be blocked off by dikes. As it is now, I have had some complaints from certain areas that are presently being diked that

(MR. MOLGAT cont'd). . . . . they have been advised at 5:00 o'clock at night, or even later in the evening, that diking would commence the next morning in the area directly in front of their homes. In fact, in one case I was in touch with the Minister of Agriculture regarding this, and some of these people are now outside of the dike system. They find themselves outside of the dike without having received any notice beforehand that the dike was going to be built and therefore having been completely unable to empty their homes, and they are now in a position where they cannot get vans into the area to remove the furniture in those houses. Well then, what is the position of someone in that particular position. There are a number of people in the City of Winnipeg exactly in that position now - or in the Greater Winnipeg Area - where they are behind a dike that has been built. They did not have notice in advance; they could not evacuate; and now if the waters do come up, who is going to be responsible for damage to their property.

I understood from previous discussions, if I'm correct, that the government advised municipalities that it would assume the responsibility for damage to structures as a result of flooding, but not to movables. Well I think that is a reasonable position where a person can move his movables, but where because of steps taken by the government the persons cannot move their movables, then what happens? Can they come back on the government?

MR. T. P. HILLHOUSE, Q.C. (Selkirk): Mr. Chairman, it appears to me that there is a legal point involved here and I think the committee should be informed by the Attorney-General or by the Minister of Municipal Affairs what the exact legal position of the owners of property in respect of which a dike is erected are being placed. Now my understanding is that where an act is done by statutory authority, that is where you are authorized by statute to do that specific act, that there's no liability on anybody who does that act under that authority unless it was done negligently.

Now I think the House or the committee should be informed as to what the legal position is of the owners of property in respect of any claims for damages which they otherwise would have under common law, because I think that by passing this measure, and I'm not suggesting for one moment that it may not be necessary and essential to do so, but at the same time I think that the committee should be made to understand before voting on any such measure what the exact legal position is of all parties involved.

MR. FROESE: Mr. Chairman, are copies of the resolution available or not? The way I heard the resolution read out, I didn't notice any provision to the effect that these dams would be removed. Is there any undertaking in the resolution or in the bill that these dams will be removed as soon as possible?

MR. FRED GROVES (St. Vital): While we're talking on this subject, I think that, not only on this particular matter that is under discussion but some of the other flood-fighting procedures that are going on in Greater Winnipeg at the moment, that there should be a regular meeting between the provincial authorities that are directing the building of dikes and other flood-fighting activities with the municipal authorities. People are telephoning the provincial offices to ask the type of questions that are being asked in the House. They're being told that they should contact the municipal authorities. Enquiries that I have made of the provincial authorities, they tell me that the municipal authorities are in full possession of all this information, and yet the municipal authorities are telling people that they haven't got this. It would seem to me that a lot of these problems over diking, sandbagging, and these legal matters in connection with the dikes, could be much easier solved and better dealt with if there was a system or a provision for some sort of a - say a bi-weekly meeting with the mayors of the cities and municipalities involved and those that are in charge of the provincial flood-fighting activities. I think this would clear up a lot of these problems because people are getting the run-around, not deliberately but because of a breakdown of liaison between the central headquarters and the municipal flood committee headquarters.

MR. LEONARD A. BARKMAN (Carillon): Mr. Chairman, my question was very much along the same lines. Maybe I didn't listen close enough when the Bill was read, but along these lines, would the municipality involved not actually have the authority directly if this Bill was passed or would they really have to get the clearance from this government, or would not this bill - and I say I may not have listened close enough to it - give them the authority both respectively.

MR. SMELLIE: Mr. Chairman, I'm sorry I didn't get that last question.

MR. BARKMAN: The question is basically this. Would this Bill, if passed, not give the municipalities this authority?

MR. SMELLIE: What authority?

MR. BARKMAN: The authority as the Honourable Member of St. Vital just mentioned in having the authority to go ahead in certain cases where instances may occur — where damage or the like may occur. After all, the municipalities would possibly have given the order that this project may go ahead. If, as said, that they may do their own diking or what have you, would they be protected under this bill?

MR. DESJARDINS: I understand the importance of this bill and certainly that this authority has to be given in such an emergency as this flood and there's so much to save, but I would like to know what responsibility — I think this is one of the questions that a lot of people will ask — for damage, if any. In this case, somebody could go ahead and dike a certain place and destroy a boulevard. One of the questions that I have — because I'm worried about my dike — I'm quite concerned around my district. My neighbours are market gardeners and I thought that we could go ahead and dike from the gardens, but then I find out that this is not so easy. They were telling me that this would spoil all the garden there because there's just about a foot or five or six inches of dark black earth and after that it is all gumbo, and apparently this would destroy all the garden. I don't know anything about it, but it's something that was brought to my attention yesterday when I tried to explain to the neighbours what might be done. This is a certain thing I know that would concern them. Of course the important thing is to save property and so on, but could the Minister say anything that will put their mind at rest?

MR. ARTHUR E. WRIGHT (Seven Oaks): Mr. Chairman, I have been in close touch with city officials in West Kildonan, an area where we experience considerable flooding, and I want to say here that I am very much impressed by the way civic officials are carrying out their responsibilities. I can appreciate what they are up against because I had the responsibility in 1950 and no one there mentioned to me that there was any great need for any particular type of legislation. I understand that under The Diking Authority Act that they do have the responsibility to go into the homes that are outside the secondary dike at the time when they become a menace to the sewer system, and then the people would have to move out. They are then able to go in and block these sewers off.

But they have done a wonderful job with putting up the primary dike of sandbags, giving the people crossings over the mud clay dike — the secondary dike. I know that there may be problems in some areas where one person will not consent to a dike thereby placing his neighbours in jeopardy but I have no knowledge of that in the area in which I live in, and I'm just wondering if the Minister had any specific cases. For instance, we know in times of emergency, Mr. Chairman, you don't worry about things like boulevards, the emergency is too great, but there are though people who spend considerable money on expensive trees and I don't know whether this would be included.

MR. SMELLIE: Mr. Chairman, it's not easy just in a few moments notice to sort out all the claims regarding damages. However, I think some things can be said at this time. First of all, I would like to refer to the remarks of the Honourable Leader of the Opposition. He says that it's not likely that any person who is going to have his property protected by a dike that he's going to refuse that permission. Unfortunately, there are some people whose property will be affected by the building of the dike who will be outside the dike in some cases, and it's not always easy to get their permission. But this is not really the prime purpose of the bill. The purpose is to cover properties where we can't locate the owner, and I understand that particularly in the City of Winnipeg they are having some problem and that they have some dozen or more cases where they have been unable to locate the owners of the property and to get any release signed by them. They haven't been able to contact them to ask them if they would sign a release or not.

So far as notice to the persons who are going to be blocked off is concerned, attempts have been made to do this, and in some cases the dikes have been left open with supplies and material on hand so that the hole in the dike can be plugged at the last minute, to allow the people who are outside the dike to make the necessary arrangements for removal of their movable goods before the flood waters arrive. There may be some cases where this is not being done. I am not aware of those and this is not one of the things that is really contemplated in this Bill.

The Honourable Member for Selkirk was asking about the claims for damages of the property owner, and I think that it is not the intention of either the municipality or the government to do damage to property without allowing compensation for it, but there is under common law, as my honourable friend knows, a right to possession of property and there could be an action for trespass to property if government moves in there without having some authority for

(MR. SMELLIE cont'd), . . . . . doing so either from the owner or from this Legislature, and in the cases where consent cannot be obtained, the proposal here is that this consent would be given in this time of emergency to people either in the municipal government or in the provincial government, or their agents, to move in and take what action is necessary for the protection of property. I wouldn't think that there would be any attempt to avoid responsibility for the actions that are taken by their servants while they're on that property if they do damage that's unnecessary, and if there is damage to structures or even to vehicles, this is proposed to be covered. There would be no liability - no removal of liability for such damage.

The member for St. Vital has raised the question of liaison with the municipal authorities and there have been real attempts to do this. The municipal people are kept informed daily as to what is going on at the provincial level and they are co-operating in a really remarkable manner with the provincial authority. Without this spirit of co-operation, I'm certain that we would not have achieved the measures of protection that we have already achieved in the face of this emergency.

However, it's not always possible to have the people who have had this liaison sitting by the telephone to answer all the calls that come in, and I think that we are experiencing some problems in having the people who are on the switchboard in the various municipalities getting the information fast enough and giving accurate information to people who do call in. I don't really know how you can overcome this, because by the time policy is decided at flood control headquarters and the municipalities are told, and the municipalities relay the information to the people that are manning the telephones, the policy may have changed because the situation changes. For example, in one area where they were at one time intending to do diking with the use of sandbags, they have eventually decided that in this area it could be done by throwing up clay dikes much quicker and faster and at less expense, and possibly even more effectively. So while somebody is screaming for sandbags, machinery is actually put in motion to put up an earth fill dike, so that the person on the switchboard may not always know exactly what is going on. We are doing what we can to overcome this breakdown in communications but it's not an easy problem.

The municipal authority has the right to construct dikes but they don't have the right to go in on any person's property without their permission, and as I said in my opening remarks, that permission will be obtained wherever it is possible to do so, but I think that if we are going to get the dikes built in time to meet the threat of flood, there are some cases where we are going to have to go in on the property without permission if people cannot be located or if some people who are not going to be protected refuse to give their permission to allow this work for the protection of others.

The Honourable Member for Seven Oaks asked for some specific cases and I'm afraid I can't give the specific cases, except to say that most of the cases that I know of - and I don't know of them in specific detail - are in the City of Winnipeg where this problem is occurring. They have occurred in other areas, and I know that on one occasion the provincial authority was attempting to get permission to build a dike around Morris, but they had one owner who didn't live in Morris and whose property wasn't going to benefit particularly from the building of the dike, and that authority was refused to the province. However, the member for Morris went to see the owner of the property and was able to persuade him that in the interests of harmony with the owners of neighbouring properties and in the interest of the community itself, that he should give this authority even if it did provide some inconvenience to himself, and the permission was granted. This is being done in every case where it is possible to do so, but I still feel that the Bill is necessary if we are to complete the dikes in some areas where it is not possible or practical to get the permission of the owners of property in time.

MR. HILLHOUSE: Mr. Chairman, I don't think the Honourable Minister got my point. My point was this, that where an authority has permissive power to do anything, they are liable in damages if they do it - they have got to compensate; but where by statute we direct a corporation or a specific authority to do a certain thing - a specific thing - there is no liability on the part of that authority for doing what it was directed to do by statute unless there was negligence.

Now all I'm asking the Minister is to point out to the committee what the intention is in respect to this particular legislation. If it is the intention to give to that authority and direct that authority to do that specific thing, well then my point is this, that if you intend to compensate in damages, you must provide in your legislation for that compensation.



MR. SMELLIE: Mr. Chairman, I didn't understand the honourable member's point, The legislation is permissive and not directory.

MR. FROESE: I don't think my question was answered at all. I was asking whether there was provision in the Bill to have the dikes removed as soon as possible or a reasonable time after the flood had passed. Now I know that where the diking takes place along a public highway, no doubt it will be removed and probably quite fast, but where it is just on common property, I'm just wondering. Or is it the intention to leave the dikes in certain places?

MR. SMELLIE: Mr. Chairman, we're really getting to the specifics of the Bill, but perhaps I should have explained that this is similar to the last Bill on snow-blowing. It is for a limited period of time. It refers to the erection, maintenance and removal of dikes. I think that should answer the question.

MR. HILLHOUSE: Mr. Chairman, the Minister said that this was only permissive legislation, but a few minutes ago he said that municipal corporations already had that power under The Municipal Act, and they have, so it can't be permissive legislation we are passing; it's directory legislation.

MR. SMELLIE: Mr. Chairman, I think perhaps if we got out of committee and got back into the House and allowed the Bill to be distributed, it would answer an awful lot of questions.

MR. MOLGAT: There's a good deal of merit to that, Mr. Chairman, the only thing is that the government wants the Bill to be put through - or would like the Bill to go through today, and once we get into the actual discussion of the Bill then we don't have the opportunity to ask questions on it, it's a question of making speeches whereas now is the point where we can have questions answered.

MR. EVANS: I would suggest, Mr. Chairman, that the Bill will go to Committee of the Whole House immediately after second reading and there will be a further opportunity then to discuss it in committee.

MR. CAMPBELL: Mr. Chairman, I would like to, while we are in this stage, to at least raise a point or two. As I understand the situation, I would think there are two matters we have to deal with. I would like to ask the Minister, is it not a fact that so far as the primary dikes are concerned, that full authority is already available. Is that not correct?

MR. SMELLIE: I'm not prepared to give a legal opinion on the matter at the moment, Mr. Chairman. I think it's probably correct, but as far as the primary dikes that were previously constructed - I think my honourable friend is talking about - there are some areas of the province though where we are building what are in effect primary dikes but they weren't constructed before, so it would not apply in that case.

MR. CAMPBELL: That's exactly the point that I was coming to, Mr. Chairman, that's why I said I thought there were two distinct questions here. The first one is that as I remember The Diking Act, and it may have been amended in the meantime - but I'm sure the authority was never taken away from the Diking Commission who is an official of this government - they have full control on that system, but then there is the other part where they're extending that primary system, and on that one I would think that some legislation is necessary. Then of course there is the other question of attempts that are going to be made in quite a few areas I understand, and hope, to save as many people as possible who are outside of the primary dikes and perhaps even those that are outside some of the secondary dikes. So I would suggest that we have full authority with regard to the primary diking system that has existed for some years, then as far as the next one is concerned, we'll have a look at the legislation.

But I would like to ask the Honourable the Minister of Public Works though, once again, if full use is going to be made of what I have continued to call the first line of defence, the Perimeter Highway on the south and the west. Is it not a fact that - my honourable friend and I had a difference of one foot between us - I thought that those two perimeter highways were built one foot above the level of the 1950 flood; my honourable friend's recollection, and probably be checked it in the meantime, was that they were at the height of the 1950 flood. Now whichever it is, isn't there considerable advantage to be working at the same time as in the Metropolitan area itself, to be working on this highway. Does that not offer some considerable advantage? Probably that's already being done, in which case I don't need to go on arguing.

MR. WEIR: Mr. Chairman, if I can answer that one. I think the primary reason for getting the Perimeter Highway up was one of transportation, not one of flood protection, although it has always been considered that there was a possibility of using it for flood protection. The primary reason was one of transportation during high water and the work has been continuing on the possibility of using the Perimeter Highway as a line of defence, or other

(MR. WEIR cont'd). . . . . means in that area. It's still being worked on and experimented on under 1966 conditions, and if flood levels reach a certain proportion then there is, I would say, a reasonable expectation of attempting to make some use of it, but the control of the water coming through the channel is a very difficult engineering problem and this is the key to the whole thing. The staff of both my department and Water Control, and the professors at the University, are all working on this project so that everything is in readiness if the stage hits the point where these things can be used, they're in a position to let them go forward.

MR. CAMPBELL: Mr. Chairman, of course we're all aware of the fact that the perimeter roads were built primarily for transportation and not for flood control, but the fact remains that when they were planned, that they were built with the possibility of flood control in mind as well, and that's one reason that they were built to the elevation that they were built. Of course the control of the amount of water coming down the Red River is important, but my honourable friend I am sure will find right in his own files, or the files of the Deputy Minister, that that bridge across the Red River was planned with that in view. Instead of being rounded out as so many are, you will find that there are flat shoulders at the side of the river there to build on and you will find that it has something like seven or - I think six tiers making seven divisions - and you will find that the outsides too at each side are capable of being shut off, and the proposal, I am certain, was that by sandbagging - or whatever method is used in there and I think it would be sandbagging - by sandbagging a couple of those divisions at the two sides of, that they can actually limit the amount of water that comes through that bridge to the amount of water that the stream will carry in Greater Winnipeg. This all went into the planning of that bridge.

At the time they even talked - they checked on the matter of whether they could combine the in-take structure with the bridge to any financial advantage. That was discarded, but I am positive that the factor of this Perimeter Highway and the way that the bridge was built, being a major control as far as flood was concerned was very fully gone into. Now the elevation is such of course that if it's going to be very effective you are going to flood some more people further south, and this is always the great problem. I know this is a problem and it's always a mighty tough decision to make that you flood somebody else who wouldn't ordinarily be flooded in order to save somebody that under the state of nature would be flooded. So I'm not saying that decision is easy.

Then there is also the fact that this being such completely flat terrain as we have here, that it's a comparatively minor amount that can be held back there anyway, but my only point is, I think it's worth checking at because it might be that just the amount that you can hold back there, even for a couple of days, might be the difference between some of these lower dikes being overtopped and carrying out the job. So I think this is a point that doesn't arise under this bill - I'm quite positive of that, Mr. Chairman - but on the other hand, I think all the factors in connection with flood protection should be considered.

MR. WEIR: We've wandered a bit from the bill, but I think I should add that all of these factors have been taken into consideration and some changes in thinking have developed in the last number of years too, and while the amount of flow has come up for question in the control of the channel itself, the engineering opinion as it rested the last time I was discussing it with the staff - and there may be changes between the last time I was talking to them and now - but it was felt that because of the generation power of the water and its effect on banks and dikes within the immediate area and the . . . . ., that the means of control would be one of control from the bottom of the river all the way across the river and up rather than control from both sides, and this was the balance of opinion that they were working on when I was speaking to them a few days ago. It involves the same set of circumstances but blocking water from a different angle. All of these things are being checked for their feasibility and a lot of it depends on the actual height of the water. And really it's something -- my understanding is that as it comes and they get more positive estimates, that there will still be time to take this into consideration if it's feasible.

MR. MOLGAT: Mr. Chairman, I have some further questions of course and I did not get an answer from the Minister on bank slippage, but I'm prepared to proceed and get down to the Committee of the Whole and ask my questions then.

MR. CHAIRMAN: Resolution -- passed. Committee rise. Call in the Speaker. Madam Speaker, the committee has adopted a certain resolution and requests leave to sit again.

IN SESSION

MR. JAMES COWAN, Q. C. (Winnipeg Centre): Madam Speaker, I move, seconded by the Honourable Member for Pembina, that the report of the committee be received.

MADAM SPEAKER presented the motion and after a voice vote declared the motion carried.

MR. SMELLIE introduced Bill No. 107, an Act respecting Construction of Dikes in Manitoba.

MR. SMELLIE, by leave, presented Bill No. 107, an Act respecting Construction of Dikes in Manitoba, for second reading.

MADAM SPEAKER presented the motion and after a voice vote declared the motion carried.

MR. SMELLIE: Madam Speaker, I move, seconded by the Honourable the Minister of Welfare, that Madam Speaker do now leave the Chair and the House resolve itself into Committee of the Whole to consider the following: Bill No. 107, an Act respecting Construction of Dikes in Manitoba.

MADAM SPEAKER presented the motion and after a voice vote declared the motion carried and the House resolved itself into a Committee of the Whole with the Honourable Member for Winnipeg Centre in the Chair.

COMMITTEE OF THE WHOLE HOUSE

MR. CHAIRMAN: Bill No. 107 - Section 1 ----

MR. M. N. HRYHORCZUK, Q. C. (Ethelbert Plains): With leave, I would ask for ten minutes at least to consider the provisions of this Bill before we go into it. It's a very important bill and there may be provisions in it that may be changed, and we can't offer any changes or anything unless we read it.

MR. EVANS: I think it's very reasonable that some time should be allowed, and perhaps if you're agreeable, Mr. Chairman, we should not call item No. 1 for ten minutes.

MR. CHAIRMAN: Bill No. 107 - Section 1 - - - -

MR. MOLGAT: Mr. Chairman, I wonder if we might bring up our questions in general rather than on the specific item. I think that in view of the circumstances it might be better.

A number of questions arise from the bill as I read it, Mr. Chairman. The bill refers specifically to damages to property - "to buildings or vehicles." Now it says nothing at all about the property itself. Let's assume the circumstances where the earth from the property itself is used for diking purposes and is pushed up from the area of the person's property. Will it be restored after to its original position?

Then the other question revolves around the term, "if the work is done with reasonable care." Now who is to be the judge of whether or not the work has been done with reasonable care. What will be the method of appeal? Will there be a body responsible to make the decisions on this? What is the right of the individual in this case? Will it mean that he will have to take the case to court? If so, it could involve some very substantial extra expenses.

Then the retroactive feature seems to me somewhat confusing. The way it reads it is retroactive to the 16th day of March and it'll cease having effect on the 31st day of August, but then there are two last -- the portions of two last lines which excepts work done after the 15th day of March. I don't see what that means. As I would read that, that would mean that we're only dealing with the one day, the 15th day of March - in between the 16th day. I can't understand what the drafting of this particular case means.

MR. SMELLIE: Mr. Chairman, my understanding is that both the municipalities and the province will remove the dikes as soon as it's feasible to do so, and as much as possible we'll restore the properties to their original state. Now I don't suppose that it will be possible in every case to restore it to exactly its original state.

The criterion of what is reasonable is one of those things that I think we're going to have to leave to the common sense of the people who are looking after this sort of thing, and where people are not satisfied there will no doubt have to be some method of appeal set up. But this bill does not contemplate that. This bill contemplates really only the establishment of the right of government to go in and trespass on property for this emergent purpose. I understand that during the height of the 1950 flood this same question was discussed in the same House, and the then House Leader established the position that I think is very reasonable under the circumstances, that there are really three areas of concern. The first one is the protection

(MR. SMELLIE cont'd). . . . . of life, the second one is the protection of property, and after those first two have been looked after, then we're going to start worrying about where the costs will lie, and I think that's the situation here.

When you come to the retroactive feature, the intention of this clause is that it should be retroactive to the date that diking started. I'm not certain the date that diking started, but I do know that on the 15th of March the Premier met with the representatives of the municipalities along the Red River Valley and he told them on that occasion that the province would pay the cost of primary diking and that they would assist with certain other costs.

Now some of the municipalities started work as soon as they could after that date. Some of them may have started the next day, I don't know. Certainly it was within a day or two after that meeting that some of them started. The charts that are in flood control headquarters show that there was progress made on diking by March 22. The final date, the 31st of August, is the date by which we would hope that all of the dikes that have been established would be removed and the property restored as much as possible to its original condition. The next two lines following the words "the 31st day of August 1966," then it says, "The bill is no longer effective after that date except in respect of work done after the 15th of March," - in other words the date it's effective, the 16th of March - "and before the 1st day of September, 1966," that is, within the period in which this bill is effective. It is quite possible that work done in removing dikes and restoring the property to its original condition may not be paid for by the 31st of August, and this last phrase is intended to leave the bill effective so that accounts for work incurred during that period can be paid after the 31st of August. Perhaps I've made it clear, perhaps it's even less clear than it was before, but I'd be happy to try and answer your questions if there are any more.

MR. HRYHORCZUK: Mr. Chairman, I only have a few questions and suggestions. When the Honourable Minister was speaking in the introduction or part of the introduction of the bill in the Committee of the Whole, he said that this -- I understood him to say that this is confined only to such property the owners of which cannot be located. Evidently the bill covers any property immaterial of whether the owner is there or not.

The damages, as my honourable Leader has mentioned, is limited to damages caused to any buildings or vehicles. Now there are damages that could be done to property that would probably be as valuable as the buildings or the vehicles, and I was wondering whether the government would have an objection to inserting in the second last line of paragraph 2, immediately after the word "caused" the following words: "directly or indirectly to the value of." Then if you destroyed anything that would reduce the value of the buildings you would be responsible for damages, and I think it's only fair, I don't think that any one person should be expected to allow his property to be used to the advantage of others, because that's what you're actually doing. One person is asking you to give up certain property rights to the advantage of his neighbours, and why should he be the one that has to suffer that loss.

I don't know whether I go along with the interpretation of the Honourable Minister insofar as that retroactive section is concerned. I believe that if he wants to use that last portion for the purpose that he has stated, it should appear as a separate section - not in there at all; because it's very ambiguous as it stands. It seems to do away with the retroactive effect altogether, and you could interpret it the other way also but I say there are two interpretations and why leave any doubt? Why not get another section in there and spell it out?

MR. HILLHOUSE: Mr. Chairman, I think dealing with the Section 6 of the Act, not only does this except in respect of work done after the 15th day of March 1966 - that is only applying to the retroactive part of that section - and before the 1st of September 1966, but not only does it only apply to the retroactive part of that section but that section does not make it clear when this Act ceases to be of effect in respect of work that was done after the 15th of March 1966 and the 1st day of September. In other words, I can't see that there is any termination date in this bill respecting work done between the 15th of March 1966 and the 1st of September 1966. Now I may be awfully dumb but that's my reaction or my evaluation of the section.

Now the other is the question of damages. The Honourable Minister's made it quite clear that they're not liable in damages for the mere entry on the land. Well, I'll go along with that; they shouldn't be. But this section goes farther. This section limits your damages to buildings or vehicles, and it also excludes damages caused during the course of the work to the property of the owner, which would be the land of the owner. Now if, as I think it was my Leader said, in the course of diking it became necessary to go onto somebody's property and use the land of that property for the purpose of constructing a dike, whether it's a primary or a

(MR. HILLHOUSE cont'd).....secondary dike it doesn't make any difference, under that section you would not be liable at all. Now I have no objection to you entering upon the land. I think you should have that right. But I do believe, though, that it should be made clear in this Act, and now's the time to do it, that you will as far as possible restore that land to its original condition.

MR. JOHN P. TANCHAK (Emerson): I believe that this authority is necessary for the continuity of the dike system in Winnipeg and also in Emerson. I'm not opposing the bill, but I'm sure that the rural members are aware of the fact that many homes in the rural areas have no sewage facilities; therefore, they make use of septic tanks and a disposal field. Now if you look at this Act here, it says that damages may be paid caused to buildings and vehicles. Now there were some damages in the past - damages to these disposal fields - and in fact I had an enquiry today from one person who said that he tried to find out locally whether such damages would be covered. He couldn't get any answer. He asked me to find out, and I think that it may be advisable - I'm not a lawyer - to insert another word there, "damages caused to any building structures or vehicles," if that's the right language - I'm not a lawyer - to include this, because this may disrupt sewage systems in some rural areas.

MR. FROESE: Mr. Chairman, I would just like to comment on Section 6 of this bill, the last two lines. We've already had an explanation from the Minister on it and I'm quite in accord, but I was just wondering when the Member for Ethelbert Plains I think it was or was it the Member for Selkirk, mentioned it probably there should be a separate section for this purpose. If this could be done I think this would be an improvement to this bill.

MR. CAMPBELL: Mr. Chairman, I have one or two matters to mention, but before doing that I would like to comment on what my honourable friend the Minister of Municipal Affairs said with regard to the time of the flood - the 1950 flood - and the position of the Legislature with regard thereto. The House was not sitting at the time of the flood - the peak of the flood. If my recollection is right, the peak occurred very late in the year. I would think it was the 18th or 19th when the actual peak occurred, and we had finished with sitting oh, two or three weeks before that. As a matter of fact, I have always maintained that one of the reasons that we got such a favourable deal from Ottawa with regard to the settlement assistance in the flood and the commitment about building the dikes, which were in my opinion a major achievement themselves, was because our House was not sitting and the Ottawa one was, and consequently we had lots of time, full time, in those two or three weeks to devote all of our energies and capacities, limited though they were in those days, to the conduct of fighting the flood itself, whereas Ottawa was still sitting and it was bombarded continuously down there by the members from Manitoba and other places and had some effect, I think, in getting us a very good settlement.

Now so far as this bill is concerned, I don't think it's up to the usual standard of draftsmanship that we have before the Chamber here, and I say that a lot of we lawyers draw different interpretations from it. To me, the last two lines would except from this provision all of the work that we're doing just now. Is that the intention? If that's what my honourable friend wants, then I think that's what this would achieve, and I have no particular objection to that. What I really do object to though, Mr. Chairman, is the fact that here again we are incorporating a retroactive feature and in this case we're making it two full weeks. Now I know what an emergent situation this is. I know this is difficult, tremendously difficult, and I know that under emergent conditions some drastic actions have to be taken at times, but I still think that even that circumstance does not justify going back two weeks and saying that for that whole two weeks that anything may have happened is just being put out of court. I'll go along with doing it from now on, but supposing something has happened that we don't even know of, is it fair for us to put that person out of court now. I think that two weeks is too long.

And the one other comment that I would like to make, recognizing the difficulties of the situation, I can certainly be quite inclined to suggest that there should be a lot of latitude in this. But from the experience that we had in the time of the famous flood, second only in importance to that one that Noah encountered - I've always had a great fellow feeling for Noah after that time, and I never shared the view of a lot of the people of Manitoba that I sent that one on the people purposely. I really didn't, and it's taken me all these years to try to convince a lot of people that I wasn't primarily responsible for it - but having gone through it and knowing the difficulties that obtained, and knowing the state of tension and anxiety and frustration that a great many of the people themselves are working under, seeing these threats to their homes and their properties, that I think a special effort should be made by the authorities even

(MR. CAMPBELL cont'd). . . . though it takes a lot of extra time to do it, that the information centres should be able to answer to the people with just as full information as is humanly possible, and that an effort should be made that even those people who are manning the dikes, who are in charge, that they do not brush the people off who come to ask questions of them. I know that the engineers are busy when this is going on. I know that the people who are operating the machines and all are working under tension too, but it isn't as great tension as those people whose homes are being affected, and if they would just all be instructed to remember that the people that they are talking to under these circumstances are the people who are paying their salaries. I don't care whether that applies to the person operating some machine or in charge of bringing in the sand or the sandbags, right to the Minister. It's still those folks that we're working for and there should be an effort made to give full information to them.

Now, Mr. Chairman, I haven't very much else to say on this. I really got up to correct the impression that this House was sitting at the very peak of the other flood. What the Honourable the Minister said, though, was right so far as the priorities that we tried to assign in those times, because we did attempt first of all to look after the -- protect the lives of people. This is the one good thing about the situation here. There are a lot of bad things about it, but one of the good things is that because of the kind of terrain that we have we don't face the same dangers that they do in some areas of flash floods and dangers of loss of life. It can be bad enough, goodness knows, in the other areas that I've mentioned but at least we don't usually have to face that. But my recommendation to the government was based on the experience second only to that of Noah, that we should be very very careful to see to it that the people that we're dealing with are handled as befits folks first, who pay our salaries, and secondly, people who are themselves facing very difficult conditions.

MR. DESJARDINS: Mr. Chairman, I am sure that we all agree with the intent of this bill. It should go without saying also that all the members of this House agree with the Minister who said that the important thing was first of all to save human lives, and then property, and then take care of paying for it. But I would say that first of all in Clause 6, it would appear anyway by the legal minds such as my honourable friend who has just spoken, that this should be redrafted and maybe that we should have two sections here. --(Interjection)-- Turn around, Noah.

Well, Mr. Chairman, I think there's something else here. We have a clause dealing with the protection from liability, and the Minister - and I certainly don't doubt his word - tells us that after the work is done when the threat is gone, that the property will be restored as much as possible to what it was before. But this is not spelled out in the Act, or I haven't seen it. It doesn't seem to be spelled out at all. I think that the Section 2 should be amended, maybe somewhere that when the work is done with reasonable care and understood that the property and so on will be restored to what it was originally. I think that that should be included in the Act to give the people more protection. The Minister made a statement here that this will be done, but if this is the wish of the government - the Minister - this should be spelled out in the Act.

Now there are other words that seem to be very important and that can vary; the meaning can vary: "the work is done with reasonable care." I don't know if it's possible to spell this out, for what might be reasonable for one person might be unreasonable to others, so I don't know if this is something that we have to live with. Where can we appeal this? I don't know. And another thing is, "the intent would be to restore the property as much as possible." Now what will that mean? For instance, if somebody had an underground sprinkler and if this is torn when the dike is being built in front of the property, will that be restored? If not, this could be very costly, and the example that I gave earlier - if the dike is built, let's say there's a lot of people in the district in St. Vital, market gardeners, that the earth is taken from the gardens. Now, after the flood will this garden, will more black earth be brought in or will that part of this garden be destroyed, will be no good, and I think these are some of the -- does that go in the define "restored as much as possible"? This leaves an awful lot. This is certainly not clear. I can understand maybe, you say if this work is done with reasonable care - I haven't got the answer to that. I don't know how else you can define this, but "as much as possible" - that is even worse. I think that -- well, first of all this is not even in the Act so I think maybe we should have it in the Act or there should be some kind of commitment from the government anyway that people should know, and then we'd have less trouble in doing this work.

There's another thing which might not be important at all, but in the second line of Section 2, we talk about that wherever a municipality or government or any person acting under the

(MR. DESJARDINS cont'd)..... authority of a municipality or a government, constructs, maintains and so on. Now that also could cause some trouble. Who's to know the people that are building these dikes have the authority with all the volunteers and especially if there's a bit of panic, and who's to know if later on if they say "where's the order?" The municipality didn't build this dike. The government didn't build this dike. What then? Are all these dikes going to be affected or should the people wait till they receive an order from whoever's coming on their property, an order signed by an authorized person, or are they just going to let anybody come on their property and then later on be told, oh well, these people had no business at all; they weren't acting for the municipality; they weren't acting for the government. I think that the Minister might look at some of these thoughts and maybe they will feel that we should have some of them mentioned in this bill.

MR. WRIGHT: ...the suggestion for Section 6. I thought, like the Honourable Member for Lakeside, that perhaps we should not make this retroactive to the 16th day of March, but on further reflection I can see where the government then would not be obligated to make payment, and while we have no knowledge of the work that has been done, what damage has been done, I think we'll have to take a chance on this.

But I would like to suggest that the expiry date is too long. I think that July 31st would be sufficient. That's four months and with modern equipment today I can see no reason to prolong this to the 31st of August. And I would like to suggest that the last line and three quarters of the second last line be eliminated, that there be a period after July 1966, and then it would read "except in respect of work not completed by July 31, 1966." In other words, the Act would expire on the 31st of July except in respect of work not completed by that date. I think that that would ....

MR. SMELLIE: Mr. Chairman, the Honourable Member for Ethelbert Plains I think misunderstood me partly when he thought that I said that this referred only to people who could not be located. There are also some others who may refuse permission and I think it would be intended to cover them also.

With regard to the wording of Section 6, the instructions that were given to the Legislative Council were that the Act should be made retroactive to the day that diking began, that it should contain a cut-off date after which the municipalities or the province had no authority to enter on property without permission, and that that date should be the 31st day of August, but that he couldn't reduce the effectiveness of the Act insofar as payments were concerned, that in other words if the work had been done during the period that was authorized, from the first day of diking to the 31st day of August, that there should be some authority for payment. Now, in the opinion of the Legislative Council, Section 6 is the way it should be worded. In deference to him I should say that he had a matter of minutes in which to do this thing, because the decision was made this morning on the basis of a very rough draft. It was handed back to him with the instructions for amendment, with instructions that if possible it should be presented to the House this afternoon. Now, it might be that on more sober reflection he might prefer to word it in another way. However, in view of the urgent pleas that are coming in from the City of Winnipeg who want to get on with work in certain areas - as I say, this is the only municipality that I know of; there may be others - I think that we've got to proceed with the thing. To me, the meaning of Section 6 is perfectly clear, and I cannot understand why there should be such a divergence of opinion, because to me the wording is, as I said, quite clear. It says that the Act comes into force on the day it receives Royal Assent, but it's retroactive to the 16th of March, and up to that point we have no disagreement. Then it goes on; it says "and shall expire and cease to have force and effect on the 31st day of August 1966 except in respect of work done between those two dates."

MR. HILLHOUSE: Yes, but you're dealing with two exceptions there - the retroactive feature and the day the Act ceases. That's the point.

MR. SMELLIE: But there is only one exception. The first one says... it is retroactive but .....

MR. HILLHOUSE: You're dealing with two matters in the first part of Section 6, then you say "except."

MR. SMELLIE: Well, I think perhaps the answer, Mr. Chairman, might be to have the Legislative Counsel come in and sit in with the Committee in case he can suggest some better alternative.

In the meantime, Mr. Chairman, I've told the Committee that it is the intention of the province and the municipalities that wherever possible the land will be restored to the condition in which it was found. I don't mean by that that they're going to put the snow back, because I don't think you expect us to do that on the 31st of August, but damage to the property will be repaired wherever it's possible to do so.

The Honourable Member for Emerson made a suggestion that I think is worthy of consideration. He suggests that if we add in after the word "buildings" in the second last line of Section 2 the word "structures", we would cover a lot of these difficulties, and I'm prepared to move, Mr. Chairman, that that word be added.

The Honourable Member for Lakeside suggested that he was not primarily responsible for the 1950 flood. He suggested he'd had a little difficulty persuading people that this is the case. Well, he has no difficulty persuading me, Mr. Chairman, I'm convinced. I, from this date forward, would never think of suggesting that he was primarily responsible for that flood or any other flood. And I'm also corrected that the remarks that he made were not before the flood but were probably at the special session which I understood took place after the flood, but insofar as the date on which the Act would cease to have force and effect, we considered several dates for this purpose and it's purely an arbitrary figure. However, I'm told that right at the moment we don't have any problem in getting either men or equipment because at this season of the year, particularly earth-moving contractors are not generally busy, but when the flood is over and a need for the dikes is gone, those people who have work to go to are going to be long gone and their equipment with them, and it may be a very different proposal when it comes to removal of those dikes, and so we tried to compromise between the convenience of the people who own the properties and the practical problem of getting the men and the equipment necessary to do the job, and it's true that August 31st is a purely arbitrary date; and if there's any disposition on the part of the House to change that date to some other date, having taken into account all of the factors that are concerned, I wouldn't object to a change of the date.

Well now, Mr. Chairman, now that we have the Legislative Counsel here, I think we should explain to him that the problem has arisen concerning the wording of Section 6 of the bill, and that certain members opposite have felt that it's clear when the Act becomes effective, but that it is not clear when it ceases to have force and effect, and particularly the phrase at the end of the section beginning with "except in respect of work done." There is some disposition to feel that this should be in a separate section, which would indicate that payments for work done during the period that this Act is effective might be made after the effective date of the Act.

MR. CHAIRMAN: . . . . . Legislative Counsel if he has no objection to redrafting it so that it is perfectly clear.

MR. SMELLIE: Well I think perhaps, Mr. Chairman, that we should have a re-draft ready for this Committee to discuss because we can't proceed with a section by section discussion of the bill until we have a new draft.

MR. CHAIRMAN: . . . . . the Legislative Counsel is re-drafting it now.

MR. MOLGAT: While the Legislative Counsel is re-drafting, Mr. Chairman, I would like to come back to some of the points I had made earlier when we were in the original Committee stage, and that's with regard to other damages; for example, bank slippage as a result of dikes being put up in certain areas. I don't think the Minister replied to that. There is also that question about the people who are left outside of the dike system because there just is no other place to put a dike, and yet who did not get sufficient notice to move. What is their situation? Have they a claim? And if so, in what way would they exercise their claim? If they do have losses to movables rather than to structures, will they as a result, not having been informed in advance, will they have a claim against the government?

MR. SMELLIE: Well, Mr. Chairman, as I told you when we were in Committee before, I am not aware of any cases where people have been prevented from moving their personal belongings from their property by reason of the building of the dikes. I am aware of some cases where the dikes have been left open to allow this to take place. In most other cases, where the dikes have been built, there have been ramps built over the dikes to allow people to have access to their homes and to move out their movable property.



(MR. SMELLIE cont'd.)

Now as far as the question of liability, or the question of what cost the province are going to bear, I am not prepared to discuss that matter on this occasion because it's really not a matter that's involved in this bill, and no decisions on many of these details have been made. This bill involves only the liability for trespass to property that wouldn't otherwise be authorized.

MR. MOLGAT: Mr. Chairman, the Minister says he's not aware of any cases where this is done. I have had a number of phone calls, and I had one specifically last night - I didn't speak to the gentleman myself; he left the message - where he claims that the dike has been built in front of his location, (this is down on Kingston Row, as a matter of fact, on the section from Dunkirk Drive to St. Mary's) and I understand from what he said that it is impossible for the people along that stretch who are on the river side, to get out, because they cannot get vans in. Now in his particular case this is compounded by the fact that apparently he has been refused a dike behind his place as well. The secondary dike system there runs between the river and the row of houses, then on Kingston Row itself there is an earth dike. Well, the secondary diking is being done by sandbags. This particular gentleman is right close to I think Edinburgh Street, and in his particular location he has been told that they will not dike his particular house. So he is left in the position where he is outside of the main dike system, he is unable to move out of his house, he tries to get the secondary dike system - which was built last year, in fact, around his home - to include his home this year, and he is told no, they will not include his home; so he just doesn't know where to turn. He goes to the local committee in St. Vital and is told by the local committee that nothing can be done for him. Now there is the problem facing one individual. I bring it up because there may be many other such instances. I intend to take this particular man's case up directly with the Flood Control people, but as a general term, in a situation like this where does the responsibility lie? That's the whole problem as I see it.

MR. HUTTON: Mr. Chairman, I would just like to say a word in this respect. The municipalities are left with the decision as to where they will locate and what homes they will attempt to protect by these secondary or even tertiary dikes. The provincial engineers have a veto only where they consider the operation to be hazardous or absolutely hopeless, so that really from all practical points of view, the municipal engineers and the municipal councils are making the decision as to what properties will be protected. Beyond this, as you know, we are supplying materials and supervision in the Metro area for the individual homeowners to use these materials to the best advantage to protect individual properties.

Now in respect to a conversation you referred to that you had had with me one evening, I at that time was not aware that there was a matter of moving furniture involved when you spoke to me. We had had many complaints -- I shouldn't say complaints. We had many requests by local homeowners asking us to keep the road open in front of their places as long as we could, and of course we had these requests coming from all areas, but in order to make sure that we got the diking done, we had to pretty well go along a pre-determined schedule, leaving openings, providing cross-overs, where it was at all feasible.

From my association with this whole program of flood protection, I frankly can't give you any answer with respect to people who may find themselves behind, or with a dike in front of them, and unable to get furniture -- but I am under the impression that in most cases one lane of traffic is left open on these streets in most cases. So I would think that when the time comes that these homes are threatened and they need to be evacuated, etc., that there is provision for getting trucks or vans in, but they would have to be under direction so that these movables could be taken out.

MR. MOLGAT: . . . . . the Minister. He's quite correct. I did not mention furniture the other night to him because it had not been mentioned to me. The question has come up since. The problem then was that they didn't feel that it was urgent, and the Minister certainly has no responsibility for furniture in this particular case. Since then the complaints have come up as to getting out. Now he's correct that there has been one lane left. If the statement is, then, from the Minister, that if, in the case of evacuation that notification will be given that evacuation must be done, and that the vans will be able to load on those streets, then this, while it won't solve the answer completely, it will be some help.

The thing I would like to clear with the Minister now then, is the question as to exactly who is responsible for deciding what dikes are going to be built, and he says that this is the municipalities' decision. In other words, they decide what dikes will be built, which ones will

(MR. MOLGAT cont'd.) . . . . be strengthened, where, and so on. So any complaints in this regard, then, should be referred to the municipality. Thank you.

MR. DESJARDINS: Mr. Chairman, I don't know if this is in order, but it's certainly flood. I wonder if the Minister could clarify **certain things** or give **some** information. Now we are told that other -- we know that other dikes will be built and we know that the municipality will decide. But in the meantime the people who are presently not protected by either primary, secondary or tertiary dikes, what are they supposed to do? Are they supposed to -- and the people that are concerned, are they supposed to put in an application anywhere? Are they supposed to sit still? Will there be somebody making a survey of this, and at what time, and will they be notified? Some of them right now are concerned. They don't know what to do. Does the initiative have to be from the people themselves? Will they have to put in an application or advise the municipalities they are in danger, or what?

MR. HUTTON: The municipalities know what homes are not protected by secondary dikes. The municipal engineers are being briefed this afternoon in the Legislative Building on the techniques that are going to be used to try and protect these homes on an individual basis. The homeowners will be notified in the next day or so that they should stay at home and be there, because they are going to be visited by field staff who are going to take the requirements to protect their property, and brief them on how to use these materials. So this will all be on the air and in the newspapers, etc., in the next 48 hours.

MR. SMELLIE: Mr. Chairman, the Legislative Counsel has drafted an amendment which would add a section providing for payment for work done during the period in which this Act is in force after the 31st of August, and deleting the last phrase from the last section of the Act, so if this covers most of the points which have been made, perhaps we could now proceed through the bill section by section.

MR. HILLHOUSE: Mr. Chairman, . . . . the question of liability to land. We don't suggest there should be any liability for entry onto the land, but we do suggest that there should be some liability for injury to land. That is, in replacing the land in the same condition as near as possible as it was before the entry was made.

MR. CHAIRMAN: Section 1 -- passed; Section 2, moved by . . .

MR. SMELLIE: . . . . Section 2, I would move that after the word "buildings" in the second last line, the word "structures" be inserted.

MR. CHAIRMAN put the question and after a voice vote declared the motion carried.

MR. CHAIRMAN: Section 2 as amended -- passed; Section 3 -- passed; 4 -- passed; 5 -- passed;

We will correct the word "bases", the spelling of the word "bases", in the second line of this section. It is correct as it stands originally.

MR. SMELLIE: Mr. Chairman, I move that the following section be added after Section 5.

"6. - Notwithstanding that this Act expires and ceases to have force and effect on the 31st day of August 1966, costs incurred for the purposes of this Act before the 1st day of September, 1966, may be paid after the 1st day of September 1966, and the provisions of Section 2 respecting the liability of a municipality, the government or any person, continue in force after the 31st day of August, 1966, insofar as it relates to any construction, maintenance, repair or removal of dikes, whether primary or secondary, or flood control works done after the 15th day of March, 1966, and before the 1st day of September, 1966. "

I've got another motion to make and after that I'll turn this in.

MR. CHAIRMAN: New section 6, as moved by the Honourable the Minister, passed. Former Section 6 is now numbered Section 7.

MR. SMELLIE: Mr. Chairman, in Section 7, I would move that all of the words after the figures "1966" in the second last line thereof be deleted.

MR. CHAIRMAN put the question and after a voice vote declared the motion carried.

MR. CHAIRMAN: (The remainder of Bill No. 107 was read and passed) Bill be reported? Committee rise. Call in the Speaker. Madam Speaker, the committee has adopted Bill No. 107, with amendments, and requests leave to sit again.

#### IN SESSION

MR. COWAN: Madam Speaker, I move, seconded by the Honourable Member for St. Vital, that the report of the committee be received.

MADAM SPEAKER presented the motion and after a voice vote declared the motion carried.

MR. SMELLIE: Madam Speaker, I would just like to say at this time that I appreciate the fact that the members of this House - all of them - have co-operated in such spirit both on this occasion and on the previous occasion when it was necessary to introduce emergent legislation of this nature, and I think that appreciation should go on record.

BILL No. 107, by leave, was read a third time and passed.

MR. SMELLIE: Madam Speaker, a search is on for His Honour the Lieutenant-Governor who indicated that he would stand by for this occasion. We haven't been able to locate him as yet but if members wouldn't mind waiting for a minute or two, we'll find out whether he's available or not. -- (Interjection) -- We'll pay you twice as much as we did for the previous ten minutes.

MR. EVANS: Madam Speaker, it had been our hope that His Honour might have been able to attend at this time but it's not possible, and we'll take the first possible occasion tomorrow to ask His Honour to come and receive this bill. Therefore, I think this sitting is concluded.

MADAM SPEAKER: It is now 5:30. The House will now adjourn and stand adjourned until 2:30 tomorrow afternoon.