

## **PRIVATE MEMBERS' BUSINESS**

**Mr. Speaker:** The hour being 5 p.m., time for Private Members' Business.

## **SECOND READINGS--PUBLIC BILLS**

### **Bill 208--The Limitation of Actions Amendment Act**

**Ms. Becky Barrett (Wellington):** Mr. Speaker, I move, seconded by the member for Wolseley (Ms. Friesen), that Bill 208, The Limitation of Actions Amendment Act; Loi modifiant la Loi sur la prescription, be now read a second time and be referred to a committee of this House.

### **Motion presented.**

**Ms. Barrett:** Mr. Speaker, The Limitation Act that I have brought forward and that is supported by my caucus and, I would hope, is supported by all members in the Legislature would amend The Limitation Act in order to remove barriers to civil suits by victims of assault which took place in a relationship of trust or dependency.

Basically, Mr. Speaker, what this amendment to The Limitation Act is designed to do is to allow victims of assault in a relationship such as that of an intimate nature, such as a spouse or a parent or a guardian or a doctor or a therapist, to come to a civil action.

In many cases, people do not remember the assault that took place until many years later, in some instances, decades after the assault took place. There have been many cases in the media and many cases that counsellors and therapists have documented where a child, for example, has been assaulted by a parent or a guardian or someone in a position of trust and they have psychologically suppressed that incident or series of incidents, very legitimately, until sometimes they are in their 30s or 40s or even later, when something happens to trigger the memory of that assault. It is far too late in the criminal court system to take the abuser or the perpetrator of that assault to criminal court. Under the amendment that we are proposing today, the victim of that assault would have recourse to the civil court to try and get damages for the pain and suffering that the assault engendered, whether it was last year, two years ago or 30 years ago.

This legislation that we are proposing is based on legislation that has recently been introduced in 1992 in the province of Ontario. It was legislation that the Supreme Court of Canada said was excellent legislation, in their determinations, and was the kind of legislation that all provinces should undertake to implement. Through this private members' bill, we are attempting to bring that forward, and we hope that the Legislature as a whole will support this legislation.

As I have stated in particular, there are two elements to this piece of legislation. They both deal with assault. The definition of assault has two components in this amendment to The

Limitation Act: one, in the case of sexual assault, there are no time limits for the victim to take the perpetrator or alleged perpetrator, I should say, to court--[interjection]

I apologize, Mr. Speaker. I just got a suggestion from my Leader (Mr. Doer) as to how to handle my cough, which I hope to be able to take, but I cannot do in this Chamber.

In cases of sexual assault, our bill would remove all time limits to pursuing a suit in the civil court, and this is, as I have stated earlier, because in many cases of sexual assault, particularly childhood sexual assault, the victim has repressed what happened or is not able, either psychologically or in some cases because they still remain in a position of powerlessness vis-à-vis the abuser, to bring action as quickly as they need to in order to get action under the criminal justice system.

\* (1650)

So we are saying that in these cases there would be no time limit on a victim being able to take an alleged abuser to court.

We all know cases, or I certainly know cases, of particularly women, that we have seen in the media where for example Mount Cashel, the orphanage from Newfoundland, or other cases throughout the country in North America that have recently come to light, where individuals, mostly young people, have waited 15, 20, 25 years before they were able to bring their concerns forward.

This amendment would enable those individuals to have their day in court--civil court, but their day in court.

The second area of change in The Limitation Act is for other kinds of assault that are perpetrated on someone who is in a position of powerlessness. Again, I must remind the members that in all cases the amendment to The Limitation Act only deals with cases of assault in a situation of dependency. This is not a case where it is an assault perpetrated between people who have theoretically equal standing. It is in cases where the assaulter is in a position of power or authority over the assaultee.

The second group that we are requesting change to The Limitation Act are other kinds of assault, for example, domestic violence, where theoretically the individuals, the spouses, are equal in power but in actuality there has been an assault that has taken place.

Again, we now have said that there does need to be an acceptance on the part of society that in these cases, because there is an actuality of power differential, there needs to be an extension of limitations so that individuals can come forward to the civil court and take their alleged assaulter to court. But we have said in this legislation that, unlike sexual assault where there should be no statute of limitations because we do not know how long it will take for an individual to remember, in some cases, the assault that occurred, in other cases of assault involving relationships of trust or dependency, there would be a limitation of 30 years.

Take the case of domestic assault. We all know situations where women--because the vast majority of these cases are women being assaulted by their male partners--have for very many reasons stayed in the relationship for a very long period of time and only after a long period of time have they said I want to leave the relationship and I want to try and make a

new life for myself. Oftentimes, they might actually leave the relationship, but then at some future point feel strong enough to be able to say not only did I leave this relationship, but the person who assaulted me should be made to pay for his actions. That is why this amendment says that in that case or in other cases of dependency or trust, other than sexual assault, there should be a period of up to 30 years for the victim to be able to take the perpetrator to civil court.

We are suggesting that this piece of legislation would define intimacy in a very large--and very broadly defined and would cover such relationships as a patient to a doctor, parishioner to a minister or a priest or a rabbi, a student to a teacher, a child to a child care provider, a person with physical or mental disabilities, a relationship to a person who is giving them care and it would apply--and I think this is a very important part--equally to male and female victims because we know that assault in these cases does not just relate to a male assault on a female victim, but as I have stated in many cases it is a male assault on a male victim or it can be cases of a female abusing a male or a female.

So we are asking for a broadening of a definition of assault, and we are saying that in cases of sexual assault the victim should be able to take the perpetrator to civil court at any time. There should be absolutely no time limitation on that. In the case of other kinds of assault in a relationship of dependency or trust, there should be a time limit of 30 years.

As I stated at the beginning, Mr. Speaker, this piece of legislation is based on legislation that has been in the province of Ontario for two years and has worked very well, and the Supreme Court highly recommends it. So I would end by recommending the House pass this piece of legislation through to committee so that we can talk to members of the public and, hopefully, see this enacted before the end of this session.

With those few words, I would recommend this piece of legislation to the House.

**Hon. Jim Ernst (Government House Leader):** Mr. Speaker, I move, seconded by the Minister of Environment (Mr. Cummings), that debate be adjourned.

**Motion agreed to.**

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**Mr. Speaker:** I understand we are not proceeding with Bill 209. Are we proceeding with Bill 209? OK.

#### **Bill 209--The Donation of Food Act**

**Ms. Becky Barrett (Wellington):** Mr. Speaker, I move, seconded by the member for St. Johns (Mr. Mackintosh), that Bill 209, The Donation of Food Act (Loi sur le don d'aliments), be now read a second time and be referred to a committee of this House.

**Motion presented.**

**Ms. Barrett:** Mr. Speaker, I will speak very briefly on this piece of legislation.

I spoke yesterday in the House on the very similar bill that has been introduced by the government--[interjection] Yes, as one of my colleagues says, a bill that was xeroxed by the provincial government.

That aside, I spoke in favour of the bill that was presented by the provincial government, and I would like to speak in favour of this bill, which is virtually identical to that piece of legislation and recommend that either one or the other of these bills be passed through to committee and that we hear the people of Manitoba on this piece of legislation and hopefully pass it by the end of this session.

I believe, Mr. Speaker, that at least one of my caucus colleagues would like to speak on this bill, in addition to myself.

**Mr. Doug Martindale (Burrows):** Mr. Speaker, I am pleased to support this bill from my colleague the member for Wellington. It was a good idea, which I believe originally initiated at Winnipeg Harvest. They recommended that the Legislature pass this kind of legislation. We are pleased to introduce a bill in order to do so.

The basic purpose of this bill is to limit the liability of donors who donate food, limit their liability for damages that may result from injury or death caused by the consumption of the food, unless the food, of course, is in an unsafe condition when it is donated.

For better or for worse, we have a rather large food bank industry in Canada, including in Manitoba. A great many of my constituents feel compelled to use the many food bank outlets in the north end, whose food is provided by Winnipeg Harvest food bank. One of the reasons that they are compelled to rely on food banks, regrettably, is that there is a vicious attack on the poor by governments, primarily at the federal and provincial level.

I would just like to itemize some of the things that this provincial government has done to make life worse for low-income people. There have been numerous cuts in the last two budgets, particularly the budget of a year ago, which have greatly affected our constituents.

\* (1700)

This attack on the poor has become worse with the installation of the welfare fraud line. What my colleagues and I and advocates in the community are experiencing is that when someone complains or alleges that there is a fraud or even when someone begins to advocate for an individual that they are being cut off benefits until the investigation is completed.

I think this is a real travesty of justice, because it is a reverse onus on people to prove that they are innocent rather than having their issue continue while an investigation goes on. We would not countenance this kind of injustice in the criminal justice system. In fact, clients would win their case if there were any kinds of examples like this in the criminal justice system, but because it is the welfare system the Minister of Family Services (Mrs. Mitchelson) and her government deem that this is acceptable.

I am saying that it is not acceptable, because people need these basic necessities, and the Canada Assistance Plan assures Canadians that their basic needs will be met. To cut people off from their basic necessities while an investigation is going on I think is unfair and may

well be illegal. If it is illegal, you can be sure that there will be a court challenge challenging this government.

I have correspondence on this as well as examples from my colleagues and from advocates in the community. For example, I would like to quote from a letter, and the Minister of Family Services, I believe, was also sent a copy of this letter. It is signed by the staff at St. Matthew's-Maryland Community Ministry, and it is dated October 25.

I would just like to read a couple of sentences from this letter. They say: It has been reported to us that a report of fraud can lead to an investigation which suspends issue of welfare payments for the duration of the investigation regardless of that person's guilt or innocence. Furthermore, people who have had benefits suspended have not received any compensation for lost benefits even when no fraud was discovered.

I think that is an appalling situation. That is one of the reasons why people are forced to go to food banks, because they have no income to buy food with. We want this stopped and if it is not stopped I think the courts will put a stop to it.

The minister has just recently tabled the annual report for her department, the Department of Family Services, for 1993-94, and the report has a very good summary of the effects on people of her government's policies. For example, when we look at the number of students on the caseload we can see the result of their discontinuing the Student Social Allowances Program. This was a move that we protested and said that this would result in students dropping out of school. Many of those people are going to be on social assistance instead of furthering their education.

So we see that in 1991-92, there were 1,025 students on this program; '92-93, there were 1,144; but, lo and behold, 1993-94, there are only 226 students and those students were no longer eligible for this program. I would be willing to bet that instead of being in school and furthering their education, these students are on welfare and going to food banks to supplement their income, because the income on social allowances is so inadequate. If you look at the Social Allowances Program by students, you can see that the budget line has decreased by about \$4 million as well.

Another way that this government chose to save money on the backs of the poor, and once again forced them to use food banks, which is what this bill is about, was by limiting the health benefits for people on social assistance. So you see in the annual report of the minister that the caseload has gone up in '91-92 and '92-93 and '93-94 from 27,115 to 30,187, but their budget line for dental, drugs and optical has gone down in all three of those categories from '92-93 to '93-94.

What happens when individuals no longer qualify because of these rules? Well, here is an example from someone. They have to go to food banks as my colleague from Wolseley (Ms. Friesen) says. She should know because many of her constituents are also poor, and they are also forced to use the numerous food-bank outlets in Wolseley constituency. But here is correspondence that I have, a copy of correspondence that was sent to the Minister of Family Services (Mrs. Mitchelson) dated December 6. It is about a four-year-old girl whose prescription glasses went missing from her nursery school program, and she applied to have these glasses--

**Mr. Speaker:** Order, please. I would like to caution the honourable member for Burrows. I believe Bill 209, The Donation of Food Act, specifically deals with the questions of liability of donors of food.

**Mr. Martindale:** Mr. Speaker, I would like to thank you for the advice that you have just given me, and I will wind up very shortly, but I would like to make one point about food banks that the member for Lakeside (Mr. Enns) pointed out to me in a discussion, and actually helped me with my speech yesterday, and I thank him for that. He said, the problem with food banks is that they become institutionalized, and as an institutional solution to poverty, it is terribly inadequate and does not meet the basic needs of people. As I was saying in an identical bill on the Order Paper yesterday, which remarks were found to be in order at that time--

**Mr. Speaker:** I am sure the honourable member for Burrows is not reflecting on the Chair. I am quite certain of that, sir.

**Mr. Martindale:** Mr. Speaker, as I was saying yesterday, the problem with food banks is that the nutrition is terribly inadequate, that the main supply of food is stale bread and stale doughnuts. I know this from unloading the truck from Winnipeg Harvest and serving people in the North End Community Ministry from 1984 to 1990.

I have a very interesting article from a newspaper in Thompson, Manitoba, with government staff, and I commend them. In fact I left a message on their voice mail commending them for having a food security workshop to address hunger in the North. They talked about malnutrition of people in Manitoba, and they talked about the effects of poverty.

So, in conclusion, Mr. Speaker, while we support this bill, and we believe it does provide encouragement for people to donate without fear of being sued, we regret that food banks are a necessity in such an affluent country and such an affluent province. We think part of the reason is the actions of this government and their cutbacks and the federal government and their cuts to social programs which have been announced in the last budget and will continue in the next federal Liberal budget.

We believe there are much, much better ways of meeting people's basic needs than food banks. Thank you, Mr. Speaker.

**Mr. Kevin Lamoureux (Inkster):** Mr. Speaker, I appreciate the opportunity to be able to put a few words on the record on this particular Bill 209.

It is a very positive bill. In fact, you know yesterday we sat through an hour and a half or so of discussion on a bill as the member for Wellington (Ms. Barrett) made reference to it with respect to virtually the same issue, and the member for Interlake (Mr. C. Evans) just made reference to the xeroxing of it. I think it is a wonderful idea, and there is absolutely no doubt about that.

The New Democrats will say that the Tories xeroxed it from them, I guess we could equally say that you xeroxed it from us last year. We had it in the form of a resolution.

I remember Mr. Gaudry's resolution, No. 30, Charitable Donations to Food Banks. We are talking about the same idea. But you know something, I am really encouraged by what I saw earlier today.

Earlier today we saw all three political parties get together and do something constructive, contrary to what possibly might have happened yesterday. But we will put that behind us, Mr. Speaker. What we saw was three political parties inside the Chamber recognize that there is some benefit with joint co-operation, and hopefully we will be able to achieve some benefit from that resolution that we passed earlier today.

But you know something, I believe that we should do something with this particular bill, with in fact not only Bill 209 but also the other bill that the government has introduced, Bill 5, The Food Donations Act, because like the resolution that we introduced last year, all three political parties are in fact talking the same thing.

\* (1710)

Do you know something? It is feasible. If the government House leader, for example, or members from the government benches and members from the New Democratic benches--the Leader of the Liberal Party and myself have discussed this--we will commit to seeing this bill and the government bill or some sort of a consensus be achieved between now and tomorrow at eleven o'clock where we get this particular bill or the government bill not only in second reading, out of second reading, and let us get into the Committee of the Whole. Let us pass this bill out of the Committee of the Whole and get it into third reading and, Mr. Speaker, then give it Royal Assent.

If the will of this government and the will of both opposition parties--and I believe that the will is there. This is a wonderful time. Here we are, just days away from Christmas, days in which, I would argue, people are generous. Their hearts are open. They want to be able to make donations of this nature, and I think it would be a very positive gesture from the Manitoba Legislature if in fact we had unanimous support of what it is that we are recommending right now, that all three political parties tomorrow morning take the initiative, and it can be--I am not fussy, we are not fussy and I do not believe the New Democrats are fussy--whichever bill it takes.

We will co-operate. We will ensure, Mr. Speaker, I can assure you that the Liberal Party will not put up another speaker on this bill or the government bill. We are very sincere in saying that we want this particular bill to pass or the government bill to pass into committee. We will sit in Committee of the Whole if necessary tomorrow, whatever it takes, because we know, with the leave of this House, that in fact it can happen. We have seen co-operation in the past. The purpose of my standing up right now is not to kill 15 minutes or to do anything of that nature. It is to propose that we deal with this item. The timing is right. All three political parties have spoken. This is not an idea that the Liberals or the New Democrats or the Conservatives should take credit for. Let us give this idea to the Manitoba Legislature, and I think it would be a wonderful thing that could happen. We can demonstrate this to the public tomorrow morning. So I would ask that all members think about it. The commitment is there from us. Let us think about it overnight, and let us pass a bill tomorrow that will ensure that Royal Assent would be given to it.

**Mr. Jack Reimer (Niakwa):** Mr. Speaker, I move, seconded by the member for St. Vital (Mrs. Render), that debate be now adjourned.

**Motion agreed to.**

**Mr. Speaker:** We will proceed to Bill 213, and we will come back to 210 in a few minutes.

### **BILL 213--The Workers Compensation Amendment Act**

**Mr. Daryl Reid (Transcona):** Mr. Speaker, I move, seconded by the member for St. Johns (Mr. Mackintosh), that Bill 213, The Workers Compensation Act; Loi modifiant la loi sur les accidents du travail, be now read a second time and be referred to a committee of this House.

**Motion presented.**

**Mr. Reid:** Mr. Speaker, this is a piece of legislation that had been introduced originally by my colleague the member for Thompson (Mr. Ashton) several sessions back. It was in response to an action that had taken place by the Court of Appeal of the Province of Manitoba, wherein the justice of that court, one Mr. Sterling Lyon, Justice Lyon, had reviewed the application of a provision of The Workers Compensation Act by a regulation, and that regulation was found to be inconsistent with the act, and I believe the justice at that time struck down that provision.

Since that time we have been without any protection for firefighters with respect to latent injuries that they might sustain to their lungs, their brains, their kidneys, their internal organs in general. These are injuries that they sustained as they performed their normal duties, as they encountered certain facets of their job to which members of society in general are not subjected. When I refer specifically to the chemicals and toxins that firefighters come in contact with, they are either through contact with their skin or through inhalation as they go about doing their normal duties.

Many of us in society take for granted the very significant work that firefighters perform on behalf of society. They are the only ones that run into burning buildings when others are leaving, and they do that not only to protect human life, but to protect the properties of many Manitobans. For that, we owe them a great deal of gratitude for their not only risking their well-being, but also to protect society in general.

(Mr. Ben Sveinson, Acting Speaker, in the Chair)

This legislation has been carried forward by myself after the member for Thompson (Mr. Ashton) had introduced it some sessions back, and we are still trying to have this legislation move into committee stage. We nearly succeeded in doing that a couple of sessions ago to give members of the public the opportunity to come forward and to comment on this legislation. The government in their wisdom chose to this point in time not to allow that to happen. We are hopeful that they would see their way clear this time to recognize the significance of this legislation and to want to protect full-time municipal firefighting forces of this province, something that they have not been interested in doing to this point in time. So we are hopeful that they will have a change of heart after hearing the comments that we have and maybe commenting themselves that they will let this bill go through to committee.

This bill, Mr. Acting Speaker--as I have said, the legislation that was in place through Manitoba Regulation 24-77 which was passed in 1977 refers, and I will quote from a document that I have here in front of me: Where a firefighter suffers an injury to his lungs, brain or kidneys, unless the contrary is shown, the injury shall be presumed to have arisen out of and in the course of employment as a firefighter resulting from the inhalation of smoke, gases and fumes, or any of them.

That, Mr. Acting Speaker, would give firefighters protection and did give firefighters protection until it was struck down by the Court of Appeal. Since that time there have been absolutely no attempts by this government to reintroduce legislation or protection for firefighters that would restore the protection that they once had. The Workers Compensation Board itself, as well, has not made the necessary attempts to reintroduce those regulations and/or legislation that would provide that protection.

I know the Minister of Labour (Mr. Praznik) has commented several times in the past that he is earnestly looking for ways to solve this problem and to provide that protection for firefighters. That was some two years ago, and I can tell you we are here two years later and we are still waiting for action to be taken. I am

not sure why, Mr. Acting Speaker, the Minister of Labour does not want to incorporate this into the legislation. Maybe he has something on his mind that we are not aware of. He has never stood up in this House to even comment on this legislation. We hope that he would take that opportunity and if there are some concerns he has he would make us aware of them.

Quite possibly if there were a friendly amendment to this legislation, that could be done in committee as well, and we could move forward with this legislation. One of the things that we talked about in the past and a lot of us take for granted is the duties that firefighters perform.

I know that, Mr. Acting Speaker, even in my own community of Transcona, some of my immediate neighbours are firefighters for the City of Winnipeg. They tell me that they are on first response units within the City of Winnipeg here, and by first response I mean that they attend calls that they have received, 911 calls that they have received, which do not necessarily mean that it is fires in progress. They respond to accidents, they respond to people who have succumbed to injury or to health conditions within their own homes or elsewhere. These firefighters go in, not knowing the medical condition of individuals, and with the conditions that we have in society where there is, I believe, a growing incidence in the number of cases of HIV and AIDS, not only within this province but within the country in general, we must recognize that firefighters actually go in and have to deal with injured people where there are bodily fluids on site and that the firefighters may on many occasions not have the adequate protection provided to them. Therefore, they themselves would come in contact with HIV-carrying persons, and in a sense it would put not only the firefighters at risk, but their families as well.

\* (1720)

I have asked, and I know the firefighters have asked--I know the firefighters have met, not only with this minister, but they have met with other members of this House as well. They would very much like to see a reporting mechanism that would allow them to become aware immediately upon an individual being transported to a medical facility and where the

adequate testing is done, and it is determined that an individual has come in contact with either HIV or/and AIDS person, that the firefighter should be notified immediately so that person could then be put into a safe place, Mr. Acting Speaker, and not be in a position where they would put their family in harm's way by means of transmitting a disease should that firefighter encounter that.

I think this is something that is fair and reasonable, and I think that this legislation would allow a firefighter, should they come in contact with that disease and or other diseases that are encountered in the performance of their duties--that we would want to do the right thing and provide that protection for the firefighters and their families.

I know that there has been a significant number of studies done, Mr. Acting Speaker, and I have several of them with me here today. You can see that every time I come forward with this legislation, the pile of studies is growing in support of the message that firefighters and members on this side of the House have been bringing forward, that firefighters are susceptible to diseases of life beyond what would be considered normal for society in general. In one study that I have here with me, and it was a report to the Workers Compensation Board on cardiovascular disease and cancer among firefighters, it says, as recent as September of 1994--it is an extensive document of studies that were done. I can refer to several sections of this study, and it breaks it down by specific segments. In the report itself, this cardiovascular disease and cancer among firefighters report, it spells out different issues with respect to the studies that were done, and different internal organs and what the results of the findings were.

The study findings talk about an association between firefighting and lung cancer and that there is the nonmalignant respiratory disease that has consistently been found among working firefighters. So we can see, Mr. Acting Speaker, that this study shows that there is a correlation between firefighting and the lung cancer disease itself. The study goes on to talk about the statistics, the study of mortality rates, that have been done on various firefighting forces throughout the country and, of course, throughout the various states of the United States as well. There have been extensive studies done. When you compare socioeconomic groups that are comparable to that of a firefighter, we find that firefighters have a higher incidence of diseases that might be considered by some to be normal diseases or ordinary diseases of life. Firefighters are more susceptible to these diseases than other socioeconomic groups that would be considered comparable.

(Mr. Speaker in the Chair)

There are various caustic agents that we take for granted, that are in every one of our homes, that many of us do not even think of as being a hazard, but when a fire starts and our furniture and our homes and our carpeting and the paints, and if the other items that we have in our homes start to burn, they release various gasses and chemicals

Vinyl chloride is one of them--a very, very dangerous product. We know that when there have been real accidents and vinyl chloride cars are involved, of course, whole communities can be evacuated, and yet we have firefighters that are going into burning buildings where there are vinyl chloride gases in place through plastic articles that are burning, vinyl and other items that are burning.

We do not think about the asbestos that is in some of these. We do not think about the soot that the firefighters are having to inhale when they go into these burning buildings. We do not think about the diesel exhaust fumes that the firefighters inhale every time they start up one of their service vehicles, their firetrucks or their first-response vehicles, inside the buildings. They have to inhale these gas fumes. It shows that diesel exhaust fumes are a problem. Also, there are statistically significant increases in lung cancer mortality which occurred in the group of firefighters.

The study goes on and it talks about summary, and I have here a summary of the panel's findings and recommendations, Mr. Speaker. This summary was done in September of 1994, when they reported. It says, with respect to cardiovascular disease, which is something that is very worrisome, I am sure, to firefighters, if not all society in general, that that there is a probable connection between cardiovascular disease and a firefighter's occupation. It also says that a probable connection exists between the aortic aneurysm. It also says that there is a probable connection between brain cancers and the occupation of a firefighter. It also says, there is a probable connection between lymphatic and hemotopic cancers. There is a probable connection between firefighting occupation and colon cancers, bladder cancers and kidney cancers.

So you can see that there are a wide range of diseases that affect firefighters that study after study have shown are linked to the occupation of firefighting.

We think, Mr. Speaker, that it is only fair that as a society we recognize the risks that firefighters are putting themselves in harm's way to protect society. We think that it is only fair that we take the necessary steps to correct the injustice and to restore protection for those in the municipal firefighting service who daily put their lives on the line to protect public lives and property.

With that, Mr. Speaker, I conclude my remarks, and I ask all members of the House to support this legislation, to allow it to move through to committee, to allow members of the public to come forward and voice their concerns and their thoughts. I ask for the support of all members of this House. Thank you.

**Mrs. Shirley Render (St. Vital):** Mr. Speaker, I move, seconded by the member for Niakwa (Mr. Reimer), that debate now be adjourned.

**Motion agreed to.**

### **Bill 210--The Manitoba Public Insurance Corporation Amendment Act**

**Mr. Leonard Evans (Brandon East):** I move, seconded by the member for Broadway (Mr. Santos), that Bill 210, The Manitoba Public Insurance Corporation Amendment Act; Loi modifiant la Loi sur la Société d'assurance publique du Manitoba, be now read a second time and be referred to a committee of this House.

**Motion presented.**

**Mr. Leonard Evans:** Mr. Speaker, I would like to take a few minutes to explain in general terms what the intention is of this particular legislation.

As members may remember, we on this side of the official opposition supported the introduction of the no-fault auto insurance legislation that was introduced here about a year ago. We supported it because it was based on a major recommendation by Judge Kopstein, who studied the entire Autopac system. You may recall, we set up this committee of one by Judge Kopstein in early '88. The recommendations came in after the government changed but, nevertheless, Judge Kopstein made a number of very important recommendations. His key recommendation was the implementation of a no-fault system.

**An Honourable Member:** And it is working.

**Mr. Leonard Evans:** Exactly, it is working. I am very, very pleased about that, because we on this side advocated it for a number of years.

**An Honourable Member:** But you did not do anything about it.

**Mr. Leonard Evans:** We did not do anything? Mr. Speaker, I do not know whether the Minister of Urban Affairs (Mrs. McIntosh) realizes, we set up the Kopstein report in early '88. He made the recommendation, but we were not in government so we were not in the position to do anything except to advocate that the government of the day--

**An Honourable Member:** You could have done something about it in the '70s.

**Mr. Leonard Evans:** Well, at least we established Autopac as it was.

\* (1730)

At any rate, Mr. Speaker, there were a number of good reasons why the Kopstein recommendation should have been implemented, which it was, as I said, in the legislation. Among other things, of course, it was fairer. This legislation is much fairer, the no-fault insurance scheme that has been proposed. It avoids lengthy and costly litigation. It does not discriminate against a lot of people who were at fault, were deemed to be at fault in an accident, but basically were ordinary Manitobans, regular people who for some reason or other made a mistake, in a fit of absent mindedness went down a wrong way on a one-way street. These things happen to the best of us, to all of us, they can happen, and it is recognized.

At any rate, it also enhances protection, generally, of Manitobans, including pedestrians. I could say a bit more about that later. Also, very importantly, it is holding down the premiums. It is holding down the increasing costs that we were recognizing when we were in office and which this government had to deal with since it has been in office.

The amendments that I am proposing in this bill deal with what we perceive to be as deficiencies in the existing legislation. They are based in large measure on public representation made at the committee stage of this Legislature.

We listened very carefully and received documentation, the committee received documentation including that from the Public Interest Law Centre of Legal Aid Manitoba. They made quite a comprehensive study of the legislation and made a number of very valuable suggestions.

Some of them were implemented by the government, but there were many others that I think we should have paid attention to and implemented.

Among other things, and I have just mentioned some of the highlights of the bill that we hope will improve the existing legislation. Definition of a spouse, we feel that one should not have to be married for five years or in some sort of relationship for five years to be defined as a spouse and we are shortening that to two years.

This legislation also covers pedestrians. Maybe a lot of people do not realize this, but you are protected by this legislation even if you do not have an Autopac policy because you do not own a car or, even if you do not have a driver's licence, and of course the driver's licence, a portion of that goes towards auto insurance, so even if you have no driver's licence and you do not own a car, as a pedestrian, you are involved in a motor vehicle accident, you are still covered, you are still protected by this legislation.

What I am suggesting, the legislation restricts these pedestrian accidents to Canada and the United States. We suggest that we should not restrict it just to North America, we should allow it anywhere in the world. We should protect Manitobans who unfortunately may be at fault, involved in some kind of a motor vehicle accident.

We also think that the current legislation discriminates against seniors because there is an arbitrary cutoff or phasing out of income replacement benefits after the age of 65. We think this is arbitrary. I know the Manitoba Society of Seniors has been very critical of the legislation on this account.

I think that the amendment I have will remove that discrimination and allow the system more or less to tailor the compensation to the individual if that individual can give evidence that he or she would have continued working beyond 65 to a certain age. So it would be a matter of satisfying the corporation that this was the case and that we could accommodate that individual.

There are many, many Manitobans who work well into their 70s and beyond, people in the various professions, the various occupations, and I am sure members can think of a lot of examples. So that discrimination is removed by this legislation.

We also recognize in this amendment that the cost of living is higher in northern Manitoba, and that is reflected often in the wage levels paid in places like Thompson and Flin Flon and so on, and we recognize that in one of the amendments where we increase the amount of maximum yearly insurable earnings by \$5,000.

Also, we believe that some of the benefits are rather niggardly. The spouse of a deceased victim under the legislation is entitled to a lump sum indemnity. Without going into the detail, Mr. Speaker, which I know I should not do anyway, I can just simply say that we have improved these benefits to spouses of deceased victims so that they do not suffer undue financial hardship. That is true for some of the other benefits. We have increased the amounts, and those are there for anyone to read in the particular legislation.

Also, we believe that anyone who is a victim of an accident and needs personal assistance should be guaranteed that assistance in the least restrictive environment. That means that if a

person can and should be looked after in his or her home as opposed to a personal care home or institution, that should take place.

Also, we believe that where there is evidence favouring the payment of a compensation to a claimant, and the evidence is balanced between evidence that is contrary to the claim and evidence that is in favour of the claim, that on balance the compensation should be paid to the claimant.

Another suggestion we have in this legislation, another proposal in this legislation, which I hope that all members would support, is setting up a system of advocates. That is having advocates available who would help claimants who may need some assistance in going to Autopac with regard to a review of their case or indeed with regard to an appeal to the commission that was set up under the legislation. So we think that there is a need and a role for claimant advocates, and that is provided for in this legislation.

We also think that it is important that there should be annual reviews of the amounts paid out by MPIC because of inflation and so on, and we require in this legislation that the corporation shall review the maximum amount of expense reimbursement at least once in each year to determine whether it should be increased or perhaps decreased if that be the case.

Mr. Speaker, we also suggest that it is important for a review to take place by the Public Utilities Board on the success of the, as I call it, new no-fault legislation, and that this provides that on or before June 1, 1997, the corporation shall file a report with the Public Utilities Board and the board shall review the experience of the corporation in the previous three years with respect to the various claims paid out and so on, and generally to ensure that it is operating fairly and adequately and that all are treated in an equitable fashion.

Mr. Speaker, a member opposite earlier on in my remarks said, it is working, and indeed it seems to be working, and I am very pleased about it. It is established on the Quebec model; and the Quebec plan, I know, was very successful in keeping premiums down, keeping the rates that people paid. The premiums people paid in Quebec have been maintained at very low levels because of the new system, because of the no-fault system that they had put in place some years ago. So this is based on the Quebec model which was successful and it seems to indeed be working in Manitoba.

There is always room for improvement, and I suggest, therefore, that this amendment is suggesting in a very positive way some improvements, additional benefits, additional fairness for seniors, additional fairness for workers.

I use just one other example in that respect, Mr. Speaker. The current legislation says that, if you are involved in an accident, whether you are at fault or not at fault, and you lose work, you lose wages, you are entitled to income replacement under a formula. However, you cannot get a nickel until one week has transpired, so whether you are at fault or not at fault makes no matter. Under the current legislation the corporation, MPIC, will not pay you a nickel for lost wages for a whole week.

So we think it is only fair that the loss of wages begin the day after the accident. There is no reason why a person has to lose wages because he or she is involved in an accident. Whether he or she is at fault or whether he or she is the innocent party, it does not matter which, you lose a week's pay under the existing legislation.

\* (1740)

So one of my amendments, Mr. Speaker, wipes this out. Another very, very important matter--perhaps this will be the last point I will make on the legislation--is with regard to the appeal process. As you know this legislation virtually has changed dramatically the way the MPIC and the auto insurance system has worked in this province. It has eliminated the litigation process that has gone on for years, a process which has been rather costly, has not always been that fair, and there was a lot of criticism of it, and, of course, the response has been the implementation of this no-fault insurance. But the fact is that there has to be some additional room for appeal. There is appeal permitted from the review panel. If you do not like what MPIC has awarded you, you can appeal that to MPIC. They have an internal review, but beyond that you can go to a review commission which reports to the Minister of Consumer Affairs. If you do not like that, if you do not like the settlement, there is no other appeal except if you have an appeal with regard to law or jurisdiction. If you have an appeal with regard to law or jurisdiction, you can go to the Court of Appeal, but that is it.

What we have done in this amendment is to strike that out, which therefore allows a claimant to go to the Court of Appeal with matters of substance as well as just jurisdiction and law. So to that extent we have provided for greater appeal to that court on the part of claimants, on the part of citizens of this province who may, unfortunately, may be involved in an accident and have to go through this process.

So I think, Mr. Speaker, these amendments I am putting forward in a very positive way, I think they are a real step forward. I am sure the vast majority of Manitobans would agree with this, and I trust and hope that all members of this Legislature would see fit to support this particular bill.

Thank you, Mr. Speaker.

**Hon. Glen Cummings (Minister charged with the administration of The Manitoba Public Insurance Corporation Act):** Here I would like to adjourn debate, seconded by the honourable government House leader (Mr. Ernst).

**Motion agreed to.**

**Bill 212--The Child and Family Services Amendment Act (2)**

**Mr. Doug Martindale (Burrows):** I move, seconded by the member for Wolseley (Ms. Friesen), that Bill 212, The Child and Family Services Amendment Act (2); Loi no 2 modifiant la Loi sur les services à l'enfant et à la famille, be now read a second time and be referred to a committee of this House.

**Motion presented.**

**Mr. Martindale:** Mr. Speaker, this bill is identical to previous private members' bills that we have introduced, both myself as Family Services critic and my predecessor the member for Wellington (Ms. Barrett), and the purpose of this bill is to change the reporting procedure for the Children's Advocate and require that the Children's Advocate report to the Legislative Assembly instead of to the Minister of Family Services.

When we initially debated this bill, the minister and the government argued that it was not necessary and we said, yes, it is necessary because if the Children's Advocate makes any recommendations to the minister, we will not know what those recommendations are. Fortuitously we actually found out that the Children's Advocate had made some recommendations to the minister because he corresponded with some people, I believe, in Thompson on April 2, 1993, and had some very pointed comments that he made, saying I am concerned that the needs of children may not be fully met with recent cuts. He also said that the care provided by the foster families has done more to meet the needs of children than any other system. So we know that the Children's Advocate has had--

**Mr. Speaker:** Order, please. When this matter is again before the House, the honourable member for Burrows (Mr. Martindale) will have 14 minutes remaining.

The hour being 6 p.m., this House now adjourns and stands adjourned until 10 a.m. tomorrow (Friday).