

ELECTORAL DIVISION	NAME	ADDRESS
ARTHUR	J. D. Watt	Reston, Manitoba
ASSINIBOIA	Steve Patrick	189 Harris Blvd., Winnipeg 12
BIRTLE-RUSSELL	Hon. Robert G. Smellie, Q. C.	Legislative Bldg., Winnipeg 1
BRANDON	R. O. Lissaman	832 Eleventh St., Brandon, Man.
BROKENHEAD	E. R. Schreyer	2 - 1177 Henderson Hwy., Winnipeg 16
BURROWS	Mark G. Smerchanski	102 Handsart Blvd., Winnipeg 29
CARILLON	Leonard A. Barkman	Steinbach, Man.
CHURCHILL	Gordon W. Beard	Thompson, Man.
CYPRESS	Hon. Thelma Forbes	Rathwell, Man.
DAUPHIN	Hon. Stewart E. McLean, Q. C.	Legislative Bldg., Winnipeg 1
DUFFERIN	William Homer Hamilton	Sperling, Man.
ELMWOOD	S. Peters	225 Kimberly St., Winnipeg 15
EMERSON	John P. Tanchak	Ridgeville, Man.
ETHELBERT-PLAINS	M. N. Hryhorczuk, Q. C.	Ethelbert, Man.
FISHER	Emil Moeller	Teulon, Man.
FLIN FLON	Hon. Charles H. Witney	Legislative Bldg., Winnipeg 1
FORT GARRY	Hon. Sterling R. Lyon, Q. C.	Legislative Bldg., Winnipeg 1
FORT ROUGE	Hon. Gurney Evans	Legislative Bldg., Winnipeg 1
GIMLI	Hon. George Johnson	Legislative Bldg., Winnipeg 1
GLADSTONE	Nelson Shoemaker	Neepawa, Man.
HAMIOTA	B. P. Strickland	Hamiota, Man.
INKSTER	Morris A. Gray	406 - 365 Hargrave St., Winnipeg 2
KILDONAN	James T. Mills	142 Larchdale Crescent, Winnipeg 15
LAC DU BONNET	Oscar F. Bjornson	Lac du Bonnet, Man.
LAKESIDE	D. L. Campbell	326 Kelvin Blvd., Winnipeg 29
LA VERENDRYE	Albert Vielfaure	La Broquerie, Man.
LOGAN	Lemuel Harris	1109 Alexander Ave., Winnipeg 3
MINNEDOSA	Hon. Walter Weir	Legislative Bldg., Winnipeg 1
MORRIS	Harry P. Shewman	Morris, Man.
OSBORNE	Hon. Obie Baizley	Legislative Bldg., Winnipeg 1
PEMBINA	Mrs. Carolyne Morrison	Manitou, Man.
PORTAGE LA PRAIRIE	Gordon E. Johnston	7 Massey Drive, Portage la Prairie
RADISSON	Russell Paulley	435 Yale Ave. W., Transcona 25, Man.
RHINELAND	J. M. Froese	Winkler, Man.
RIVER HEIGHTS	Hon. Maitland B. Steinkopf, Q. C.	Legislative Bldg., Winnipeg 1
ROBLIN	Keith Alexander	Roblin, Man.
ROCK LAKE	Hon. Abram W. Harrison	Legislative Bldg., Winnipeg 1
ROCKWOOD-IBERVILLE	Hon. George Hutton	Legislative Bldg., Winnipeg 1
RUPERTSLAND	J. E. Jeannotte	Meadow Portage, Man.
ST. BONIFACE	Laurent Desjardins	138 Dollard Blvd., St. Boniface 6, Man.
ST. GEORGE	Elman Guttormson	Lundar, Man.
ST. JAMES	D. M. Stanes	381 Guildford St., St. James, Winnipeg 12
ST. JOHN'S	Saul Cherniack, Q. C.	333 St. John's Ave., Winnipeg 4
ST. MATTHEWS	W. G. Martin	924 Palmerston Ave., Winnipeg 10
ST. VITAL	Fred Groves	3 Kingston Row, St. Vital, Winnipeg 8
STE. ROSE	Gildas Molgat	Room 250, Legislative Bldg., Winnipeg 1
SELKIRK	T. P. Hillhouse, Q. C.	Dominion Bank Bldg., Selkirk, Man.
SEVEN OAKS	Arthur E. Wright	168 Burrin Ave., Winnipeg 17
SOURIS-LANSDOWNE	M. E. McKellar	Nesbitt, Man.
SPRINGFIELD	Fred T. Klym	Beausejour, Man.
SWAN RIVER	James H. Bilton	Swan River, Man.
THE PAS	Hon. J. B. Carroll	Legislative Bldg., Winnipeg 1
TURTLE MOUNTAIN	P. J. McDonald	Killarney, Man.
VIRDEN	Donald Morris McGregor	Kenton, Man.
WELLINGTON	Richard Seaborn	594 Arlington St., Winnipeg 10
WINNIPEG CENTRE	James Cowan, Q. C.	412 Paris Bldg., Winnipeg 2
WOLSELEY	Hon. Duff Roblin	Legislative Bldg., Winnipeg 1

THE LEGISLATIVE ASSEMBLY OF MANITOBA
3:30 o'clock, Wednesday, April 15, 1964.

Opening Prayer by Madam Speaker.

MADAM SPEAKER: Presenting Petitions

Reading and Receiving Petitions

HON. STEWART E. McLEAN, Q.C. (Attorney-General) (Dauphin): Madam Speaker, I move, seconded by the -- pardon me, I present the final report of the Standing Committee on Law Amendments.

MR. CLERK: I beg leave to present the seventh report of the Law Amendments Committee. Your committee has considered Bills, No. 102, an Act to Amend The St. Boniface Charter, 1953; No. 109, an Act Respecting the Town of Morden; 104, an Act to repeal Certain Acts relating to Certain Corporations; 115, an Act to Amend the County Courts Act No. 2; 117, an Act to provide for the Disbursement of Moneys held back under certain Contracts respecting Roadbuilding; and has agreed to report same Without Amendments. Your committee has also considered Bills, No. 110, an Act to Amend certain Provisions of the Statute Law and to correct certain Typographical Errors in the Statutes; No. 111, an Act to Amend The Metropolitan Winnipeg Act (2); No. 112, an Act to Amend The Municipal Act (2); No. 116, an Act to Amend The Civil Service Superannuation Act; No. 118, an Act to Amend the Highway Traffic Act. And has agreed to report the same With Certain Amendments. All of which is respectfully submitted.

MR. McLEAN: Madam Speaker, I beg to move, seconded by the Honourable the Minister of Education that the report of the committee be received.

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

HON. DUFF ROBLIN (Premier) (Wolseley): Madam Speaker, before we leave this point may I ask for the leave of the House to refer the bills mentioned in this report to the committee of the Whole House when it meets in a few minutes time so that we may proceed with an examination of these bills in Committee of the Whole.

MADAM SPEAKER: Agreed?

Notices of Motion

Introduction of Bills

Orders of the Day

MR. GILDAS MOLGAT (Leader of the Opposition) (Ste. Rose): Madam Speaker, I beg to move, seconded by the Honourable Member for Lakeside that this House do now adjourn for the purpose of discussing a definite matter of urgent public importance, namely the decision of the Department of Health to change the assistance basis to victims of the polio epidemic who accepted home attendant care in lieu of remaining in hospital.

Madam Speaker presented the motion.

MR. MOLGAT: Madam Speaker, I thank you very much for allowing me to proceed with this matter which I do believe is urgent and it is of public importance. The matter came to my attention only this morning and this was my first opportunity to bring it up and there was no other opportunity except by this particular measure. Madam Speaker, I received a letter this morning which I would like to read to the committee because I think it explains the situation that exists. It is addressed to me, dated April 14, from Winnipeg. "I hope that this letter will serve to bring to your attention a situation that has developed recently concerning the few remaining polio patients of the last great epidemic of 1953. A small number, approximately 20 patients, in various stages of severe disability, including in nearly all cases, breathing defects, were sent home from the King George Hospital in the years 1955 to 1958. This program included a complete housing investigation with minimum standards set, reliability investigation of the wife or husband who would accept the responsibility of the invalid, and a government paid and approved home attendant where necessary. The program was initiated for two reasons -- primarily as an economic measure. The cost of \$120 a month for a home attendant was contrasted to the \$600 per month in hospital. Secondly, it was to be better for the patient who had reached maximum improvement and of course the hospital was relieved of many responsibilities. At the time of leaving the hospital and as an encouragement to do so, these patients were assured that the acceptance of this assistance was in no way to be considered as welfare and it

(Mr. Molgat, cont'd)...was verbally stated at that time, that in accepting this challenge the patient's economic life would not be affected. These patients have asked for nothing more than was originally provided. They are raising and educating their children, paying for their own drugs, paying for Manitoba Medical Services and the Manitoba Hospital Plan, plus the numerous extra expenses of maintaining a polio patient at home. Some are iron lung cases, some are almost completely paralyzed. They are all making a magnificent effort to be independent and are an asset and example to their community.

"These patients were notified on March 11, 1964 that in order to continue to receive the essential home attendant services they would be required to apply for provincial government welfare. This includes a means test, liens on property, etc., the very things that the patients were promised would never apply. These patients are now in a desperate situation. There is no alternative but to return to the King George Hospital to the detriment of themselves and their families and to the increased expense and overloading of the already inadequate facilities at the hospital. It seems a gross injustice to a diminishing group who are well aware of their short life expectancy. As a representative example of this group, I took polio in 1953 as did my two sons. The youngest son died. In 1955, as an iron lung patient I was selected as a test case under the aforementioned conditions. I was assured that in taking the obvious risk of leaving the hospital I would be doing a service to the hospital and the health department and setting an example that eventually others did follow. I spend 12 to 16 hours a day in the iron lung, have no use of my arms so am completely dependent on a home attendant during the weekdays. My husband looks after me at nights, weekends and holidays. I feel that my husband and I were given a challenge with the aforementioned assurances. We faced the challenge and have had our family together for the past nine years. None of these patients can accept the increased burden of paying for a home attendant themselves. We are unable to find a voice in the Department of Welfare or the Health Department. We have even sought legal aid and a lawyer seems unable to penetrate these departments on our behalf. It was suggested that we write to you as a member of the Legislature in the hope that you might be able to focus the attention of other members on this flagrant violation of a promise to this group of invalids and their families. Please feel free to call me for any further information required." Madam Speaker -- (Interjection) -- yes the name is signed Mrs. Grace Leech. The lady -- I have her permission to read the letter. She said that she hoped that this would not hurt their case. I told her that I felt that they had such a strong case that on the contrary it would help.

Now this is the letter that she received on the 11th of March, Madam Speaker. It's from the Department of Health, Norquay Building, office of the Provincial Co-ordinator of Rehabilitation, dated the 11th of March. "Dear Mrs. Leech: This will confirm our recent discussions at which time I advised that financial assistance for home attendant services from this office will terminate April 1st. The cheque which you received at the end of February, 1964 to cover March services will be the final allowance cheque. As requested, we have referred your name to the Department of Welfare, Care Services, for consideration of home attendant services. We are pleased to have been of assistance to you and your family. Thank you kindly for your kind consideration, Yours very truly, Mr. F.H. Vince, Case Secretary."

Madam Speaker, it seems to me that here is an action which should be reversed. These people as I understand it -- and I have been I must confess unable to check it out thoroughly because as I say this letter reached me only this morning, well after the House rose in fact at a quarter to one -- but my understanding is that this arrangement was made with these polio victims and that they were to be given particular assistance -- this is the result of the 1953 epidemic -- provided they would return to their homes they would receive this assistance for a home attendant. This was not a welfare measure but was conducted through the Department of Health. This, in view of the epidemic, in view of the circumstances, was a particular condition. There are not a large number of them involved as far as I can find out. The cost of the program is not very great. The lady indicates the life expectancy of these people is not very great and the burden will decrease, far from increase in the future it will decrease.

It seems to me, Madam Speaker, that we have a moral commitment to these people. They accepted to come out of hospital on the basis of the assurances of the Department of Health, that they would be treated on this basis and I submit that it is not fair now to say to them, you must revert, leave this program and become welfare cases. I think it's unfair to them. This

(Mr. Molgat, cont'd)...was not the arrangement that was proposed to them in the first place and I would plead with the department to reverse this. Let us return to the original agreement that we had with these people. I will admit that it was a special agreement, a special agreement for polio victims at that time, but it was an agreement made with them and I don't think it's fair now to change this and put them under the Department of Welfare.

MR. SAUL CHERNIACK, Q.C. (St. John's): Madam Speaker, I received the identical, and it's practically word for word, letter as the one which has just been read by the Honourable the Leader of the Official Opposition, only I received it shortly after nine this morning when I came to the Legislature. Lacking sophistication I suppose I sent the letter across to the Minister of Health with a note asking him to read the letter and then speak to me about it. He did that fairly soon after he received the letter and told me that he wasn't too clear on just what the problem was but he would find out and he then left the Chamber and came back and told me that this matter was again under consideration and that he would tell me later on today just what the development was so that I could deal with it. I told him I felt it my obligation to communicate with Mrs. Leech and he assured me he would. I then phoned Mrs. Leech during the lunch hour and told her of what I had done and she said that she had already received a phone call this morning from some department saying that the case was now being referred back to a person whose name sounded like Wall -- I may be wrong about the name -- and that it was being reviewed. I told her I wasn't sure that I could assume credit for it and I wasn't really looking for that but that I would report more as soon as I had more information from the Minister. I assume now it won't be necessary for me to report to her privately because the public will know just what the government intends to do about what appears to be a serious matter.

MR. ROBLIN: Madam Speaker, I would just like to thank the two gentlemen who have spoken on this matter because it is an important one and it is one that deserves immediate attention. I think it is quite proper that it should have been discussed at this time. I also wish to express my thanks to the Honourable Member for St. John's for his courtesy in bringing this matter to the attention of the Minister, so that he was able to take action on it at the first opportunity.

As I have been informed, this whole problem arose from an administrative decision, not a ministerial one, which under the circumstances is unfortunate to say the least, and certain representations in that respect have now been made I understand. In any case arrangements have been made, as the Honourable Member for St. John's has said, to withdraw the policy that was outlined in the letter that was read to us a few minutes ago and to revert to the old situation which we had before. I am quite certain that that is the proper thing to do. These people have been doing a splendid job in taking care of themselves as much as they can in their own homes. It's healthier for them and it has been a great advantage to the public as a whole I believe and the undertakings that were given to them in the first place, the understandings that were entered into must be honoured. There can be no question about that whatsoever; and the government intends to see that those undertakings are honoured. For reasons which I am not able to explain at the moment some administrative changes were contemplated and actually put into operation as the House has heard and I regard that as unfortunate. We are certainly taking steps to see that this is reversed. I'm informed that all the people concerned in this have been telephoned this morning to inform them of the situation, the fact that the matter is being put back on the old basis as I believe it certainly should be. I appreciate the fact that this has been brought to our notice and I assure the House that I believe appropriate steps are taken.

MR. MOLGAT: Madam Speaker, I thank the First Minister for his statement. I think that this is the right course to follow. I wonder if the government would be prepared, in addition to the phone call which he mentions, to write to these people and set out in writing clearly their position and the undertaking that they have that this will be the continuing structure. As far as I'm concerned I'm satisfied that the action has been taken. I didn't know it had been taken. I thank the Minister for his statement and I would ask leave to withdraw my resolution.

MADAM SPEAKER: Agreed?

Committee of the Whole.

MR. McLEAN: Madam Speaker.....I'd like to lay on the Table of the House a Return to an Order of the House, No. 2, on the motion of the Honourable the Member for Logan

(Mr. McLean, cont'd)...made the 14th of February, 1964.

HON. J.B. CARROLL (Minister of Welfare) (The Pas): Madam Speaker, I'd like to lay on the Table a Return to an Order of the House dated April 14th, Order No. 52, on the motion of the Leader of the Opposition.

MR. RUSSELL PAULLEY (Leader of the New Democratic Party) (Radisson): It seems we are getting some returns. I asked for a return in connection with the Art Centre and correspondence, if I recall correctly, some time back. There were some reservations and I suggested at that time that I might get those pieces of correspondence where there were no reservations of a local nature. I'm wondering if I will get that before prorogation and if not may I have the assurance that it will be mailed to me?

MR. ROBLIN: Madam Speaker, I doubt that the information will be available before prorogation and it is not proper I think to undertake to continue the Order after the House is prorogued. But I know what my honourable friend wants and that is information and I think that informally if he'll be kind enough some time when he's in the building after prorogation if he'd be kind enough to give me a telephone call I'll see that he has an opportunity to peruse the correspondence and if he wants to renew the Order at the next session he certainly can do so, but we'll see in the meanwhile that he has a chance to look it over.

MR. ELMAN GUTTORMSON (St. George): Do I understand that the Orders that haven't been returned yet will expire?

MR. MOLGAT:point of order I suppose it would be. I wonder if we couldn't make some change in that arrangement Madam Speaker whereby if the order isn't returned at this session that it be given at the next session. Otherwise it simply means that the order will be put back into the Order Papers at that time and undoubtedly if it's been on the Order Paper now the government has taken certain steps already to provide the information and it seems pointless to me to cease at this point and then start all over again when the next session meets. Could we not arrive at some agreement if it's improper under the rules to submit it between sessions then to submit it when the next session comes up?

MR. PAULLEY:if I may just on this point. While the First Minister may be technically or legally correct in stating that the Orders do die with the session -- I haven't looked this up in Beauchesne but I accept at least for the time being his pronouncement of this -- but I do know Madam Speaker that in the past I have been privileged to receive copies of Orders for Return that were not tabled during the session. I believe the former administration did this on two or three occasions and if memory serves me right Madam Speaker even the present government has done it. Now it may not be legally proper but I certainly suggest Madam Speaker that it is a courtesy if not a legal gesture that may be made by the government.

MR. ROBLIN: That courtesy we'd be glad to oblige my honourable friend.

MADAM SPEAKER: Committee of the Whole House. The Honourable the Member for St. James.

MR. D.M. STANES (St. James): Madam Speaker, I beg to move, seconded by the Honourable Member for Churchill, that Madam Speaker do now leave the Chair and the House resolve itself into Committee of the Whole to consider the following Bills: 80, 102, 109, 110, 111, 112, 114, 115, 116, 117 and 118.

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 St. Matthews in the Chair.

Bill No. 80 was read section by section.

MR. T.P. HILLHOUSE, Q.C. (Selkirk): Mr. Chairman, I move, seconded by the Honourable Member for St. Boniface, that the Bill be not reported.

MR. STANES: Mr. Chairman, before the question is put I'd like just to clear up one or two matters that have been stated publicly and privately. It has been stated that the Radclyffes have another course and that is that they can go to the Supreme Court. I would like to remind members that the evidence which is available and has been presented before the courts will be repeated again because the evidence indicates that the swab was left there in the early operation. Taking this matter to the Supreme Court will have the same result undoubtedly as previous court cases and would just be a waste of money.

It also has been suggested that we are passing the buck when we allow this matter to go.

(Mr. Stanes, cont'd)...before a court to decide whether this particular case is so exceptional and it has the sufficient evidence and all the facts are known for it to have permission to go before the court and be adjudicated upon. I suggest, Mr. Chairman, that this is the place where the people are qualified to make this decision. I feel I am not. And a question of principle has also been raised Mr. Chairman. On the matter of principle I would respectfully suggest that this decision was made and confirmed last year and previous years. The only difference between this and other cases is this happens to be a case concerning the medical profession, although I think we have had some in the past concerning the medical profession.

Mr. Chairman, I am fully confident in the abilities of our courts and that they will take, especially in view of all the discussion we have had on this very interesting and very difficult case, they will take all these things in consideration and will adjudicate on this matter accordingly and if there is evidence which is lacking, if there are things which we do not know about, then permission for this to come before it will not be granted. I do respectfully suggest, Mr. Chairman, that to leave this matter in the air and not pass this Bill at this time will be very unsatisfactory to both parties. Both parties will wonder whether they are right or whether they are wrong.

MR. MOLGAT: Mr. Chairman, before the question is put I'd like to make my own position clear on this matter. The other day when this Bill first came up I said that I would support its going to committee and did so because I wanted to hear the representations there in the committee. I must say, Mr. Chairman, that I am not happy with the situation that we're faced with here too frequently in the House where we have to make decisions as to whether matters should be re-opened or not. I don't know what the answer is to this system. I think it's a most unfortunate system and I would like to see the government, the Attorney-General's Department, possibly consider over the next year some means whereby matters such as these should not be a matter of political decision here but a matter of judicial decision elsewhere, because this is in effect what they are. Having heard the representation in committee, Mr. Chairman, I am not going to support the Bill.

MR. PAULLEY: Mr. Chairman, I would like to just state my position, and in rising at this particular time I want it clearly understood that I'm just speaking as a private member of the House. To me, this is not a political matter at all in the normal sense that we deal with political matters here in the House. When I was first made aware of the problem of the Radclyffe family, Mr. and Mrs. Radclyffe, I was very very sympathetic and as a matter of fact I'm still very sympathetic insofar as the case is concerned, and I assured -- to be fair to myself and to the parties concerned -- I assured them that I would have the matter aired, and I think that I have followed through that obligation made at that time and have heard the representations. As a matter of fact, Mr. Chairman, during the meeting of the committee, I asked a few questions of legal counsel that appeared before the committee in connection with this matter.

In the Bill that we have before us, the action is directed to two individual doctors of the medical profession and of course this brings in the medical profession as such. But I did ask one of the solicitors who was appearing on behalf of Mr. and Mrs. Radclyffe that if even though we did give to the judge the authority -- or the judge of the Queen's Court the authority to decide as to whether or not this matter could be referred to a court and thereby overcoming the Statute of Limitations and if this was done and there was no evidence to establish the responsibility as to the doctor, would then it mean that we again would be faced with similar actions or bills in the future to overcome the Statute of Limitations. The answer that I received at that time to my understanding was yes, if the doctors in this particular case were not held as liable then possibly somebody, the nurse or the hospital or some other one would be named the defendant in another bill -- or a party in another bill to which the same process would take place again. So I felt Mr. Chairman that this could lead possibly to a succession of requests of bills of this nature to overcome the law of The Statute of Limitations Act.

Now then, I want to repeat, Mr. Chairman, something I said during the committee, that I have every sympathy and understanding, I think, for the suffering and the loss of the Radclyffes, and to me it's unfortunate that we haven't got in the Province of Manitoba some account or some fund so that compensation might be paid in cases of this nature. As a matter of fact, Mr. Chairman, we've been dealing today with The Highway Traffic Act and we are going to set up a further

(Mr. Paulley, cont'd)...penalty insofar as Unsatisfied Judgment Fund is concerned so that the victims of unfortunate accidents who are not able to lay a direct claim and pinpoint to any particular individual as being the cause of their injury, through the Unsatisfied Judgment Fund then that party can establish in the court claims for compensation. I suggest, Mr. Chairman, that there is somewhat of a parallel in this particular case where such a fund might be worthy of consideration of being set up. So I say this, Mr. Chairman again, that when the matter was first drawn to my attention it appeared to me a question that should be given the airing of this legislature. I think in view of all the evidence that we have before us, I can find no other course, proper course for me to take than support the motion of the Honourable Member for Selkirk.

HON. ABRAM W. HARRISON (Minister without Portfolio) (Rock Lake): The consideration of this Bill by myself has been one of the most difficult problems that I have experienced in this Legislature. I find that I was on one side of the question one time and on the other side another time. Possibly this was due to an experience that I personally had before I entered the Legislature. I did have an emergency operation for a twist in the bowel, and one February morning with the snow blowing and all of the complications that do occur at that time of year, through the co-operation of the CPR, they did put a snowplough ahead of the train and they took me down to Morden, some 80 miles away, and Dr. Wiebe, a former member of this legislature and Dr. Menzies patched me up and restored me to health. I'm sure that when they took me into the operating room that they didn't have too much hope that they would be successful. They were, and for that reason I have a very good opinion of the medical profession in Manitoba.

However, I can't help but feel a little compassion for the lady in question who is the subject matter of this Bill, and so I have to weigh one against the other. I believe the medical profession should be protected. I think that they have serious decisions to make and they are mostly right in their decisions. They do avail and provide medical service, sometimes at considerable tension to themselves, and they should be protected as far as we are able to protect them in this Legislature.

I would also go a little further than that. I would suggest that the medical college or the medical profession originate a fund which would be available on compassionate grounds where cases of this kind could be taken care of, not on the basis of logic or responsibility but on the basis of good public relations between the doctors and their patients. I make this suggestion because I believe it would clear up situations of this kind, of people in need who had suffered as a result of an operation possibly through no fault of the doctors or the hospital or anyone who had any responsibility in the case. It seems to me that it wouldn't cost the medical profession very much. They could set up a committee of prominent responsible people who would say who would get the benefit of a compassionate fund of this kind. It would seem to me that if the medical profession gives some consideration to a suggestion of this kind, possibly in the future we would not have a recurrence of cases as we have today. I do feel that the medical profession should be above suspicion and they should be above the possibility of being sued for damages when they have given their services in the best manner that they know how. I would leave that suggestion with the Legislature, and I find that I'm going to vote against the Bill.

MR. R. O. LISSAMAN (Brandon): I suppose by this time most of the members have made their minds up on this question as to how they will vote on this particular Bill, but this suggestion of a fund that has come into the picture recently suggests to me that there may be just a touch of guilty conscience here. I would like to remind members that the limitations placed on the various statutes were no doubt approved of by this Legislature, probably a different composition but certainly by this Legislature, and to my mind there's nothing sacred about them in the sense that no law can foresee particularly trying and perplexing cases, and as we know in certain statutes there is provision made for when discovery of the fraud is known, why then the period of limitation extends from that period. I would suggest that this might be one of those types of things.

Now since these limitations have been enacted by this Legislature, then this is the last resource -- the last resort of people seeking some relief from an injustice which the limitations may impose upon them. I think this Legislature should give very serious consideration to extending this period in cases such as this because how could a person possibly take action if they didn't know what injury had been done. And while, as I said in committee, I really feel

(Mr. Lissaman, cont'd)...that the chances of these people proving actual negligence may be very very remote, nevertheless I feel that it would be wrong to deny them at least a chance of obtaining some redress for their injury.

MR. J. M. FROESE (Rhineland): Mr. Chairman, just a few words, because we'll be asked to vote on this very matter before us. We all know that the lady in charge was harmed. We know that she's not to blame. After all, she's the one that suffered and we know that she's not to blame. And hearing some of the members are so very concerned about the matter of funds, I think doctors do carry a liability insurance to cover such cases, that if they should be found guilty, the insurance company would be paying that. It wouldn't be the individual in most cases.

All we're asking in this Bill is to allow the application to go forward. The court will still have to rule on this matter whether they allow it or not, and I feel that these people are much better qualified to rule on it than we are here in this House. I don't think this is being harsh at all; I think we're just doing the right thing by letting this bill go through.

HON. GEORGE HUTTON (Minister of Agriculture) (Rockwood-Iberville): Mr. Chairman, I'd like to say that I along with some others find this a very difficult question to resolve when I opposed the Bill in principle. It's been suggested that some of us are having a little trouble with our conscience in opposing the passage of this Bill. I would agree and confess that I'm having trouble with my conscience and I expect that many members in the Legislature who are opposing the Bill will have trouble with their conscience. There would be something dreadfully wrong with any member of the Legislature who is not moved by the circumstances that surround this case and who would not oppose the bill except with a twinge of conscience and a feeling of compassion for the individual concerned, because even though we are responsible to the welfare and the good of the total community that we represent, we also have a real responsibility to try insofar as we can reconcile the good of the individual to the good of the community. We are responsible for those individuals, but we are responsible to the good of the community and that's something that none of us can forget.

I am not as well versed or trained or experienced in the law as some of the members of this Legislature to recognize the significance of the provision of the limitation of liability in its broad sense, but I do have I think an appreciation for what this means in the field of medicine and in the healing art and its application to the community. We know a long time ago that there was a story told in the Bible about the man who went down to Jericho and fell amongst thieves. Some of those passed by, passed by on the other side, they didn't even bother to go near him; and then there were others who came and looked on him but they went their way. There was one amongst them all who did extend himself in the helping hand.

Now I could see, and what I'm afraid of, Mr. Chairman, is this, what seems like a very meritorious action on our part to help one individual could have very far-reaching affects upon the welfare of all of us in the community, because if we are to set aside the statute of limitation of liability in this case, we may very well -- very well create an attitude amongst the medical profession where they are forced by the thing that we have done in this Legislature to protect themselves, and in so trying to protect themselves they are unavoidably put in the position where they put themselves ahead of the welfare of the patient. This is a very significant aspect of this question that everybody should take into consideration.

This is a very hard case, the case of Mrs. Radclyffe, a very difficult one, and against that you must balance the welfare of the children, your own children, your own family, your own friends, and consider what a doctor may do in the future. In the case of an emergency for instance, will he take the action and will he assume the responsibility that he has today or will, in the light of the action of this Legislature, will he pause to think of the consequences. If he pauses to think of the consequences of any particular action in terms of himself and his own family instead of thinking of you, then the community has lost a great deal.

I'm not denying that the plaintiff in this case has lost a great deal, but I think you have to weigh that off against the loss to the community if you support this bill. I think there comes a time in the life of a leader, and we all are leaders, when you have to make tough decisions, and I think this is one of the times when we have to be tough. It doesn't mean that we're callous or indifferent or that we don't have sympathy for the individual, but I think we must extend some of our sympathy, some of our care and some of our thoughtfulness to the welfare of the community

(Mr. Hutton, cont'd)...at large.

MR. E. R. SCHREYER (Brokenhead): On one hand this bill before us in a sense asking us to pass an ex post facto law. In some aspects it certainly does resemble such a law and, as such, it is really offensive to us and we wouldn't think of supporting it; but on the other hand we must agree surely that from time to time law is, as Oliver Twist said, an ass. I have the impression that in this particular regard it is, because it is a technicality of statute law that is preventing an individual here from trying to obtain justice by due process and I feel that if we are to pass this Bill we are not doing anything much more than to allow the individual to seek redress from the courts and I for one have only one justification for voting for this Bill, and that is it is going to be decided upon in the final analysis by our judges, and there is to me no other alternative but to put complete trust and faith in their good judgment. I am sure that they will put excruciating analysis into this case if it does ever get before them and so therefore I am content, if it's possible to be content in a case like this, to vote for the bill with that knowledge in mind.

It is my understanding that at some subsequent session, perhaps next year, the government is thinking of bringing in a bill to amend the Statute of Limitations so that one will be able to initiate legal action, not just from the date of, shall I put it date of occurrence, but also from the date of discovery, and in this case you see if you look at it closely it has so worked out that we are in effect precluding this -- actually preventing this individual from hoping to obtain justice, because how, at what time, when could she have initiated an action because the date of discovery came at a time which came after the application of the Statute of Limitations. So while it looks like a conundrum, I am going to vote for the Bill for the reasons which I have stated.

HON. GEORGE JOHNSON (Minister of Education) (Gimli): I didn't intend to get into this debate again but I just want to say a very few words. While I don't often disagree with the Honourable Minister without Portfolio, I would just respectfully point out to him and the Committee that my understanding of this over the last several weeks when I have had an opportunity to pay some attention to this whole matter is that I don't think any member of the medical profession is looking for any special consideration or special protection other than the protection offered to the people of Manitoba, society in Manitoba as a whole. My understanding also is, and I am not a lawyer and I'm trying to interpret this, my understanding is that this bill being passed definitely makes it possible for this whole case to be contested on the 1944 issue. I understand that our British Courts and British law do give much latitude and consideration to the area of judgment of what constitutes negligence and so on within medical practice, and that members of the medical profession in British Courts and British justice have -- the experience has been that there's not too much to be feared in that sense, that our courts respect this aspect of the problem that was presented to us at the committee stage.

However, I say to my honourable friends who have spoken today, and with all the compassion in the world for this woman, what constitutes justice? We are sitting on a question of justice. Is it just for us to let this go back to 1944? Is it just that the gentleman in question could be found -- if he's found guilty for example, is it just to have allowed this to be opened after this period of time? I am concerned -- my conscience is -- I don't think that this is just. I think that what the Minister of Agriculture said -- I just wanted to say that I think probably one of the real functions, one of the real problems in medicine today, if the members would consider for a moment too, I think this has tremendous ramifications, because 25 years ago when people went to the doctor they were sick -- they were obviously ill. Today, people come much earlier with public health education and sophisticated medical testing and so on. They come looking apparently well, and then many conditions and diseases are determined very early and much is done about it today which wasn't possible a few years ago. But I just want to say that I do feel that -- I'm a member of the medical profession, true -- and I really don't think from the evidence that I have heard that the party in question could prove anything in 1944, but I do say I'm in no position to say what is just. I don't think it is just to that man who thought he enjoyed the same privileges of other citizens of this province with respect to the Statute of Limitations. I think this is the question that comes before us every time we look at one of these types of bills. I don't think that if the Statute of Limitations changed you would find the medical profession seeking any special consideration. I don't think it would be right and I don't

(Mr. Johnson; cont'd)...think they would, but I do think we owe it to all of the -- I think that in any line of human endeavour, that we have to be most careful of extending it for one and not another. I just wanted to say those few words, Mr. Chairman.

MR. FRED GROVES (St. Vital): I think that some of the arguments that have been put forth by the speakers opposing this Bill in connection with doctors fearing a rash of future actions is a lot of bunk, because these doctors have a responsibility within the Statute of Limitations as it stands now and this case is only a rare exception. The passage of this Bill isn't going to change the statute one bit, nor in my opinion is it going to necessarily mean that every year we're going to get more and more of these bills.

Now when we were discussing this in committee, when we were considering Bill No. 85, I asked Gordon Hall who was here on behalf of the medical profession about Section 43 of that bill which puts a limitation of one year on a doctor for malpractice or error after an operation, and I was satisfied with his answer. Mr. Chairman, if the Law Reform Committee can come back a year from now with a recommendation to change that section and make it more realistic, then that's all right with me, but in the meantime I'm satisfied with this one year, because in cases of injustice or alleged injustice, people in unusual circumstances can come to this Legislature for relief. I think that even if we left this one year in The Medical Act as it is, as long as we do nothing to prevent people from coming to the Legislature for relief in unusual circumstances, then I don't think that the medical profession or the general public at large suffered very much.

But I'm surprised at the horror that is expressed in some quarters with the fact that bills such as this are appearing here in the Legislature. Mr. Chairman, this is where people who feel they have been done an injustice, this is where they should come whether it involves the Statute of Limitations or any other statute. Since I have been in the Legislature I think there have been six of these bills presented. Now I'm not sure of the number, and I think only four of those passed, so in their wisdom the members of the Legislature decided to reject, as my memory serves me, two of these bills. Surely, Mr. Chairman, the circumstances in this case are such that we should support, and I certainly intend to support the passage of this bill.

This woman carried a foreign substance in her body for 20 years without knowing that it was there, and during that period she continued -- and I think this is important -- to have faith in and to go to the same doctor for treatment, and neither of them, neither the doctor nor the woman involved knew during this period that there were circumstances that might give the plaintiff a cause of action or might involve the doctor in a suit for an action of his that was some 20 years old. Surely this isn't a set of circumstances that are going to present themselves too often, and are a set of circumstances that certainly justify the presentation of a bill such as this to the House.

Mr. Chairman, we are not all court lawyers and we can't be expected to know and to understand the rules and evidence as they apply in courts nor should we be expected to, and I think that if I as a member of the Legislature were asked to rule on such matters or to hear evidence in cases like this, I would refuse because I think that this is a job that we have entrusted to the judges of our courts and I think they are the people that should be deciding whether or not this particular woman has a cause of action or whether this action should go to the courts. Surely we should, in this case as in all other, be entitled to rely on the judgment of the judges of our courts to decide whether or not this should proceed. If we leave the Statute of Limitations alone, as long as we don't interfere with the right of people to come here in unusual circumstances, then no doctor in my opinion is placed in an untenable position and he's no worse off than he is at the moment.

It's nonsense, as I said, to say that doctors should fear that if this particular bill passes that a precedent has been set that unduly affects their future positions. I just don't think this is the case. After all, the Statute of Limitations will still be there and is the doctors first bulwark of protection, and in cases such as the one that we are considering where the people involved feel that the Statute of Limitations is creating an injustice, then they can come to the Legislature.

Mr. Chairman, who would suggest that getting one of these bills passed is an easy matter? We've seen the stages that this Bill has gone through. We've had written submissions from the parties involved prior to the second reading of this Bill; we've had in some instances personal

(Mr. Groves, cont'd)...conversations with the parties involved in this Bill; we had the debate on second reading; we had the hearings and the discussions in committee; and we have now this discussion on third reading.

In addition to that, Madam Speaker, there has been a lot of personal lobbying which doesn't make it any easier for these bills to pass. We have a case of two Cabinet Ministers that have been going around lobbying the individual members of the Legislature, urging them to vote against this Bill. Now, I don't -- and I'm not saying that critically -- I'm not saying that critically. I think that this is their problem if this is what they want to do, but nonetheless it serves to illustrate my point that these bills are not easy to get through the Legislature. Members have changed their minds, as one of the previous speakers in this debate. So again let me repeat, that the getting of one of these bills through the Legislature is not an easy job and I think that if one happens to be fortunate enough to get through, it certainly isn't putting the doctors of this province in any unusual circumstances.

As long, Mr. Chairman, as these bills are permissive, then I think that we shouldn't do anything to change that or feel that we're upsetting the world. Surely we're in a position to decide on the basis of the representations that have been made to us whether or not -- not whether or not justice has been done but whether or not the circumstances are such as to warrant having competent persons in the persons of the judges of our courts decide whether the waiving of this statute would or would not do justice in these circumstances. Mr. Chairman, when I say that I think that this matter should go to the courts, I'm concerned -- and I believe the things that have been said by some of the others about the seriousness of this Bill -- but I'm concerned about a lot of the statements that have been made, particularly in the committee stage by those who appeared before the committee, and I think that only a judge of the court is in a position to make these decisions.

In Mr. Hall's submission, he says: "The petitioner's remedy and damages against a person thought to be responsible respecting a surgical gauze should not be denied, as the surgical gauze was not discovered until approximately 19 years after the limitation period expired." Well this is something, Mr. Chairman, that competent lawyers should be arguing in front of a judge. "The purpose of the limitation provision is to protect defendants from being vexed with stale things relating to long past incidents about which records may no longer be in existence, and as to which their witnesses, even if they were available, may well have no accurate recollection." Again, Mr. Chairman, these are things that lawyers should be arguing before a judge of the court. In one of the submissions that was made on behalf of the plaintiff, it says: "On May 24, 1961 Dr. McBeth made a statement to Mr. Radclyffe to the effect that he took full responsibility for leaving the gauze there." And we heard the evidence that was given to us in committee about the changing of the evidence 10 days before the hearing. All these matters, Mr. Chairman, are matters that are in the field of the justices of our courts to decide. All we are doing if we pass this Bill is making it permissible for the plaintiff concerned to apply to a judge who in turn must make the decision as to whether justice can be done by allowing this matter to go further in court.

MR. LEMUEL HARRIS (Logan): Mr. Chairman, I would like to make a few remarks on this Bill. I stand in support of this Bill going through for one reason. I hear people speak around here saying that they want to see justice done. I want to see justice done too, and the only way that I can see it, is we of the Assembly here are here to hear everything that is brought to us from around Manitoba, and if we say that this Bill shouldn't be brought here, well I say we are the body in Manitoba that this Bill should be brought to and should be ironed out here in this respect. If we can't bring justice to this Bill right now, there is a court to go to. As was said here about the man that was down on the side of the road and people passed him on one side and people passed him on the other side, I would say and who looked after that man? There was a Good Samaritan came along and looked after that man and I think that we should be the Good Samaritan here and let this Bill go through to where it is protected in the proper manner. Let other people decide. If we can't decide in our own mind, if our conscience is squeamish, well I say let this Bill go through and let it go to the courts where it should go properly, because I've seen too many of these things and I say let it go through.

MR. MOLGAT:by any means but there was a comment made by the Member for St. Vital which I would like to refute so far as I am concerned and I believe those of my

(Mr. Molgat cont'd) . . . group. I was not the subject of any lobbying or any pressure by anyone, including Cabinet Ministers or anyone else. I made my decision on this basis, Mr. Chairman, on the things that I heard in the committee and on the basis of what I think is the greatest good of the greatest number. I have every sympathy for the case at hand but my decision had to be based on what was in the final interest to the majority of the people in the Province of Manitoba and not to the subject of pressure or lobbying.

MR. CHAIRMAN: The question before the committee is the motion of the Honourable Member for Selkirk that Bill No. 80 be not reported.

Mr. Chairman put the question and after a voice vote the Chairman declared the motion carried.

HON. STERLING R. LYON, Q.C. (Minister of Mines and Natural Resources)(Fort Garry): Could we have a standing vote?

A counted standing vote was taken, the result being as follows:

MR. CHAIRMAN: Yeas, 39; Nays 13. I declare the motion carried.

Bills Nos. 102, 109, 110, 111, 112, 114, 115, 116, 117, and 118 were read section by section and passed.

MR. CHAIRMAN: Committee rise and report. Call in the Speaker. Madam Speaker, the Committee of the Whole House has considered the following Bills and directed me to report as follows: Bills No. 102, 109, 110, 111, 112, 114, 115, 116, 117 and 118 without amendments, and Bill 80 not reported, and ask leave to sit again.

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

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

Bills No. 102, 109, 110, 111, 112, 114, 115, 116, 117, and 118 were each read a third time and passed.

MR. ROBLIN: Madam Speaker, I would like leave to introduce the various Bills in connection with the Current and Capital Supply. I move, seconded by the Honourable Minister of Industry and Commerce, that leave be granted to introduce Bill No. 36, an Act for granting to Her Majesty certain sums of money for the public service of the Province for the fiscal year ending the 31st day of March, 1965.

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

MR. ROBLIN introduced Bill No. 53, an Act to authorize the expenditure of money for various Capital purposes and to authorize the borrowing of the same (1).

MR. ROBLIN introduced Bill No. 54, an Act to authorize the expenditure of money for Capital purposes and to authorize the raising of the same by loan (2).

MR. ROBLIN introduced Bill No. 55, an Act to authorize the expenditure of money for the purpose of assisting municipalities to finance public works and to authorize raising of the same by way of loan.

MR. ROBLIN introduced Bill No. 56, an Act to authorize the expenditure of moneys for the Capital purposes of the Manitoba Hydro Electric Board and to authorize the raising of same by the way of loan.

MR. ROBLIN, by leave, presented Bill No. 36, an Act for granting to Her Majesty certain sums of money for the public service of the Province for the fiscal year ending the 31st day of March, 1965, for second reading.

Madam Speaker presented the motion.

MR. PAULLEY: We, if I remember rightly, passed an appropriation for, I think it was one-twelfth of the moneys required for the service of the Province some time ago. Is that taken into account in this Bill?

MR. ROBLIN: Yes, Madam Speaker.

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

MR. ROBLIN, by leave, presented Bill No. 53, an Act to authorize the expenditure of money for various Capital purposes and to authorize the borrowing of the same (1), for second reading.

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

MR. ROBLIN, by leave, presented Bill No. 54, an Act to authorize the expenditure of moneys for Capital purposes and to authorize the raising of the same by loan (2) for second reading.

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

MR. ROBLIN, by leave, presented Bill No. 55, an Act to authorize the expenditure of moneys for the purpose of assisting municipalities to finance public works and to authorize the raising of the same by way of loan, for second reading.

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

MR. ROBLIN, by leave, presented Bill No. 56, an Act to authorize the expenditure of moneys for the Capital purposes of the Manitoba Hydro Electric Board and to authorize the raising of the same by way of loan, for second reading.

Madam Speaker presented the motion.

MR. PAULLEY: I wonder, Madam Speaker, if we might possibly have the Bill in front of us before we do this. I think it might be advisable. There might be a typographical error that we might want to look at.

MR. ROBLIN: I thought the Bill was distributed. It's Bill 56. I have it here. If the Member has not got it

MR. PAULLEY: I haven't got it here.

MR. ROBLIN: I asked the Clerk to attend to it because -- (interjection) -- Well we'll have to call a halt for a moment until we find it. Now the Bill has been distributed, Madam Speaker, will you put the question.

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

MR. ROBLIN: I beg to move, seconded by the Honourable Minister without Portfolio, that Madam Speaker do now leave the Chair and the House resolve itself into a Committee of the Whole to consider Bills No. 53, 54, 55, 56 and 36.

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 St. Matthews in the Chair.

Bills No. 36, 53, 54, 55, 56 were read section by section and passed.

MR. CHAIRMAN: Committee rise and report. Call in the Speaker. Madam Speaker, the Committee of the Whole House has considered certain Bills and directed me to report as follows: No. 53, 54, 55, 56 and 36, without amendments, and ask leave to sit again.

MR. MARTIN: Madam Speaker, I beg to move, seconded by the Honourable Member for Brandon, that the report of the committee be received.

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

By leave, Bills No. 36, 53, 54, 55 and 56 were each read a third time and passed.

MR. ROBLIN: Madam Speaker, I understand the Whips have been in consultation about our next meeting and the information that has come to me is that the House would wish to meet at 7:30 tonight in the hopes of completing its business by 10:00, if possible, and carrying on to other activities after that. It would be my hope that we could be through by 10:00 and I have undertaken to advise His Honour to be so kind as to be in waiting in case that should happen, and if that is the general view then I'll move the adjournment till 7:30.

MR. MOLGAT: Madam Speaker, this is acceptable to me, but I would like to make it clear that there is no commitment that we will be through by 10:00. The debates will simply have to carry through their normal course. I think there is a possibility, depending on what happens with the various speakers, but there's no commitment to it as far as we're concerned.

MR. ROBLIN: Well, I think that's the best we can do at the moment. Yes, we'll meet at 7:30 and rise at 10:00 and do the best we can with it, and I'm optimistic enough to take the risk of asking His Honour to be available in case, so, on that understanding, Madam, I move, seconded by the Honourable Minister of Industry and Commerce, that the House adjourn until 7:30.

Madam Speaker presented the motion and after a voice vote declared the motion carried and the House adjourned until 7:30 Wednesday evening.