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THE LEGISLATIVE ASSEMBLY of MANITOBA

Thursday, December 8, 1977

Time: 2:30 p.m.

OPENING PRAYER by Mr. Speaker.

MR. SPEAKER, Hon. Harry E. Graham(Birtle-Russell): I should like to direct the attention of the honourable members to the gallery on my left where we have 25 students from the Steinbach Bible Institute. These students are under the direction of Mr. Gerald Barkman. This school is located in the constituency of the Honourable Member for La Verendrye. On behalf of all the members, we welcome you here today.

Presenting Petitions . . . Reading and Receiving Petitions . . . Presenting Reports by Standing and Special Committees . . . Ministerial Statements and Tabling of Reports . . . Notices of Motion . . . Introduction of Bills.

ORAL QUESTIONS

MR. SPEAKER: The Honourable Leader of the Opposition.

MR. EDWARD SCHREYER(Rossmere): Mr. Speaker, a question to the First Minister and it flows from the reports of today's press, that the Prime Minister has sold — to paraphrase the headline — has sold the premiers on his economic plans for creating jobs. May I ask the First Minister if in fact he has been sold on these plans and will he take the opportunity to indicate what the salient features are?

MR. SPEAKER: The Honourable First Minister.

HON. STERLING LYON(Charleswood): Mr. Speaker, in responding to the Leader of the Opposition, I am at a disadvantage in that I've only read the same headline myself, and he will appreciate that I was not able to read the burden of the story or the news report to see whether that, in fact, coincided with any discussions that we had had. Based on the headline I would have to say that there was no coincidence between the headline and the discussions I had with the Prime Minister, except in a very generalized sense. I would really have to read the story and then see the subsequent communication from the Prime Minister before I could give a definitive answer. What the story is based upon, I can't say at this stage. Certainly it does not appear to have been based upon the kind of discussions that we had the other day.

MR. SPEAKER: The Honourable Leader of the Opposition.

MR. SCHREYER: Mr. Speaker, I quite appreciate that. Quite apart then from the headlines which oftentimes are misleading in any case, may I ask the First Minister if it would be correct to say that discussions did take place with respect to the reported notion of — and I'm quoting now — massive, massive spending on the construction of projects from fish plants to experimental oil refineries. Was this kind of specific possibility discussed?

MR. LYON: No, Mr. Speaker.

MR. SCHREYER: Well, Mr. Speaker, then my third and last question with regard to this. In light of the fact that the report seems to, more than seems to, but in fact does intimate — the words are not mine, Sir, — massive spending on works projects from fish plants to experimental refineries — could I ask the First Minister if this kind of approach, which isn't new, would be in accordance with his view and policy views as to what is needed at this time in the economy?

MR. LYON: Mr. Speaker, I repeat what I said in response to the first question, that we're operating in somewhat of a vacuum. I would much prefer to see the specific statement that the Prime Minister alluded to when he was here on Tuesday, that he will be sending to all of the premiers following the completion of his meetings with the ten premiers on Wednesday, I believe it was, before one could make any comment at all upon policy implications re or apprehended from the news report that the Leader of the Opposition has alluded to.

MR. SPEAKER: The Honourable Member for Elmwood.

MR. RUSSELL DOERN: Mr. Speaker, I wanted to direct a question to the Honourable Minister responsible for the Task Force. Could he indicate whether any prominent Liberals or New Democrats will be utilized in his expeditions into the Civil Service?

MR. SPEAKER: The Honourable Minister in charge of Task Force.

Thursday, December 8, 1977

HON. SIDNEY SPIVAK(River Heights): Mr. Speaker, I'm not aware of the political affiliations of those who have agreed to participate on the Task Force.

MR. DOERN: Well, Mr. Speaker, can the minister give us the assurance that decisions to eliminate SMYs will be based on, let's say, considerations of merit or economy rather than on political affiliation?

MR. SPIVAK: I wonder if the honourable member would repeat the question.

MR. DOERN: Could the minister assure us that there will be no political considerations in the decision to cut staff or SMYs?

MR. SPIVAK: Mr. Speaker, the Task Force will be making recommendations to Management Committee with respect to government reorganization reform. The actions that will be taken will either be consistent with the recommendations, a rejection or some amendment. When that occurs there will, in fact, I believe be some adjustment with respect to the Civil Service.

It will be based on the moneys that are available to operate in the following year — this coming fiscal year — on the basis of recommendation of reform and the acceptance of the reform. Those will be the considerations.

MR. SPEAKER: The Honourable Leader of the Opposition.

MR. SCHREYER: Mr. Speaker, to the Honourable, the Minister of Industry. Since he has tabled in response to the Honourable Member for St. Johns a document or what purports to be a document projecting, or shall I say extrapolating certain information relative to capital flows and investment, may I ask the honourable minister specifically with respect to investment, if he will table, not hypothetical but the actual investment data for each year for our province for the past 10 or 15 years, take his pick?

MR. SPEAKER: The Honourable Minister of Industry and Commerce.

HON. ROBERT (Bob) BANMAN(La Verendrye): Mr. Speaker, I reply to that question in saying that would be an appropriate Order for Return.

MR. SCHREYER: I'm at a little bit of a loss, Mr. Speaker. I gave my word to the Honourable, the First Minister that we would not file Orders for Return at this session and now I'm being invited to do so. I am quite prepared to do it in that fashion. But I would ask my honourable friend if he would not simply undertake to table the Statistics Canada catalogue which would provide that information. It would be merely a formality to file an Order for Return, the effect is the same.

MR. SPEAKER: The Honourable First Minister.

MR. LYON: Mr. Speaker, just on the point that my honourable friend, the Leader of the Opposition has raised. He's quite right that there has been an accommodation extended by the opposition with respect to Orders for Return — and which we appreciate — in this session.

And on the second point, of course the Statistics Canada — it used to be the Bureau of Statistics — StatsCanada figures are of course a matter of public record. If we could facilitate my honourable friend's research into them by providing them we'd be happy to, but they're in the library right across the way, and that would be the only information, I imagine, subject to what officials might tell us that we would have.

MR. SCHREYER: Well, Mr. Speaker, I can only put my question in this form and I don't wish to pursue it further. The one thing I miss most, Sir, in this position compared to the position across the way is the relatively lesser access to certain documents and statistical data and it is only a question of asking the Minister of Industry if he would be so kind as to simply to provide, which I know he has so readily available in his office, that particular information governing not guessed-at but actual investment level data for this province.

MR. SPEAKER: The Honourable Member for Fort Rouge.

MR. LLOYD AXWORTHY: Mr. Speaker, I have a question for the Minister responsible for the Task Force on the reorganization of the economy. In answer to a question this morning, he indicated that the task force terms of reference would encompass a wider orbit than simply looking at government departments. On that basis, does he indicate that the task force will be reviewing the kind of financial assistance or grants that are given to the wide variety of private agencies or organizations who depend upon some form of government support and those agencies, have they been notified that this review will be taking place of their own funding base?

MR. SPEAKER: The Honourable Minister.

MR. SPIVAK: Mr. Speaker, I'm not sure that the Honourable Member for Fort Rouge is right in the interpretation of my answers to the questions that were asked this morning. Certainly the task force will be examining moneys and funds and grants that are given to a whole host of non-governmental agencies in determining the range of effectiveness of the programs in the limited and preliminary way in which it will be dealing with its function undertaking at this period of time. If there is need, I am sure that there will be contact with those whom they may desire to discuss the matter with for the purpose of obtaining information. My impression though is that within the government structure, there is a well of information available for their investigations and, in turn, we have received submissions from some organizations whose information will be passed onto the review teams for their consideration.

MR. AXWORTHY: A supplementary, Mr. Speaker, just so that we can be quite clear as to exactly what this task force is doing. Can the minister indicate then that part of his review or re-examination will be the examination of moneys given to organizations like the Children's Aid Society which carries out certain child welfare functions on behalf of the government, say the Universities, certain other kinds of organizations that receive grants as part of their operation and, if so, if they are going to be subject to that kind of review, has there been any specific directive given to them to begin their own reassessments and being able to prepare submissions or is it simply that they can do so on a voluntary basis?

MR. SPIVAK: Well, Mr. Speaker, the review teams have the objectives. They are set up and organized to deal with their terms of reference. They will be reviewing expenditure of government money. Their course of action will be determined by them, but at the same time I should make the Honourable Member for Fort Rouge aware that the departments themselves are in effect reviewing their activities as they prepare for the estimate process.

MR. AXWORTHY: Well, Mr. Speaker, I don't want to persist with the minister but I think it is important . . . well, considering that we spend a couple of hundred million dollars in grants and allocations, I would suspect that it's more than a laughing matter for those who are on the receiving end of it and that it would be important for those organizations to know that if their function is being reviewed and being examined by these review teams, what opportunities they would have to present their case and to provide the kind of information or assessment that is needed. Therefore, Mr. Speaker, I would simply ask the minister, in the conduct of this review or the activity of his review teams, what procedures are being put in place so that these private non-governmental organizations would be able to have full access to present what they are doing and to ensure that the information received is the kind of information that would be useful to the review team?

MR. SPIVAK: Mr. Speaker, the non-governmental organizations that the honourable member has referred to are in a continuous process of review by the departments who in fact deal with them on a day-to-day or month-to-month or yearly basis. The task force will conduct itself to achieve the objectives that have been set forward; they will have their own operating procedures; they may or may not be in contact with certain agencies, that will be their decision. Their recommendations, that is of the review teams, will come to the task force itself. They will in turn be forwarded to the government through the Premier or the Management Committee and then the decisions will be made.

MR. SPEAKER: Before I recognize the next question, may I point out to members that the question period is for the use of all members of the House and I would hope that the questions are fairly short and concise and the answers are similar. The Honourable Member for Burrows.

MR. BEN HANUSCHAK: Thank you, Mr. Speaker, I wish to direct my question to the Honourable Minister of Education. Yesterday, he had indicated that at a school trustees' workshop, all aspects of education — and I'm quoting from a newspaper report — will have to be examined to ensure their cost effectiveness. May I ask him who will do the examination, his department or the task force under the co-chairmanship of one of the Ministers without Portfolio?

MR. SPEAKER: The Honourable Minister of Education.

HON. KEITH A. COSENS(Gimli): Mr. Speaker, in answer to the member's question, both.

MR. HANUSCHAK: Yes, Mr. Speaker. This now becomes very interesting. May I ask then, you know, what the division of responsibility will be as to the type of examination that will be performed by his department and that by the task force which is co-chaired by one of the Ministers without Portfolio.

MR. SPEAKER: The Honourable Member for Selkirk.

MR. HOWARD PAWLEY: Mr. Speaker, my question is directed to the Minister of Finance. I wonder if the honourable member could advise the House whether now, having had an opportunity to peruse the response from the Honourable Mr. Chretien, he is able to advise the House whether or not the federal minister is prepared to waive the \$300,000 assessment in relationship to the Liquor Control

Commission assessment.

MR. SPEAKER: The Honourable First Minister.

MR. LYON: Mr. Speaker, I'm sorry I didn't get the first part of my honourable friend's question.

MR. PAWLEY: Mr. Speaker, my question was directed towards the Minister of Finance because he had taken the question the other day as notice, in connection with the assessment levied by Mr. Tansley, the AIB administrator against the Liquor Control Commission of some \$300,000 and the letter which was forwarded to the federal government to Mr. Chretien, I understood, by the Minister of Finance and I gather there was a response to him from Mr. Chretien, whether he is now able to advise the House as to whether or not there was any agreement to waive the assessment.

MR. SPEAKER: The Honourable Minister of Finance.

HON. W. DONALD CRAIK(Riel): Mr. Speaker, there is no further resolution to the problem. The correspondence that I referred to between myself and the federal Minister of Finance has not resolved the problem satisfactorily. We think there is still a possibility but I doubt whether we'll get it resolved until the Finance Ministers' meeting at the earliest which is slated tentatively sometime in late January.

MR. SPEAKER: The Honourable Member for Transcona.

MR. WILSON PARASIUK: Thank you, Mr. Speaker, my question is directed to the Minister without Portfolio responsible for the Task Force. To whom does the private sector co-chairman report?

MR. SPEAKER: The Honourable Minister.

MR. SPIVAK: Mr. Speaker, the private sector co-chairman and the other members of the task force and myself report to the Premier as Chairman of the Management Committee.

MR. PARASIUK: A supplementary, Mr. Speaker. In order to clarify ministerial responsibility, can the minister confirm whether the private sector co-chairman reports to him as Minister responsible to the Task Force or directly to the First Minister?

MR. SPIVAK: Mr. Speaker, we are co-chairmen.

MR. PARASIUK: Thank you. I would like to ask the minister, how do the responsibilities of the private sector co-chairman and the political co-chairman differ and in the light of concerns for efficiency, is not one co-chairman redundant?

MR. SPEAKER: The Honourable Member for The Pas.

MR. RONALD McBRYDE: Mr. Speaker, a question for the Minister of Municipal Affairs. I wonder if he could enlighten me about the tapes that were apparently removed from a government office and now seem to be missing.

MR. SPEAKER: The Honourable Minister of Northern Affairs.

HON. KEN MacMASTER(Thompson): Mr. Speaker, could I take that question because it has been handed on to me to deal with? If the Member for The Pas had asked this specific question this morning, he would have got an answer, Mr. Speaker, but he made a little comment. —(Interjection)— I'm prepared to. —(Interjection)— Well, do you want the answer or what? Okay, the letter came in from the Member for The Pas to the Honourable Gerald Mercier asking if he could view the tapes of a public meeting that was held in Thompson on November 6th. The letter was handed on to myself to deal with and the answer is that there is absolutely no problem with him viewing those tapes if he wishes to.

MR. McBRYDE: Mr. Speaker, can I assume from that answer then that the tapes that I have been unable to locate the custody of are now in the custody of the Minister of Northern Affairs?

MR. MacMASTER: I'm not sure where the member makes his assumptions or how he makes them, but I can present those tapes to him and he can view them.

MR. SPEAKER: The Honourable Member for St. Boniface.

MR. LAURENT L. DESJARDINS: Mr. Speaker, I have a question for the Honourable Minister of Health. In order to prepare his Estimates, the Minister no doubt is receiving budget proposals from

Thursday, December 8, 1977

the different agencies. My question is, is that done on the usual way as it has been done in the past or are they being given any direction that there'll be certain cuts, or are those budgets returned to them for different cuts or added information?

MR. SPEAKER: The Honourable Minister of Health.

HON. L. R. (Bud) SHERMAN (Fort Garry): Mr. Speaker, we're just barely into that process at this juncture. The message that has been disseminated, I think, generally throughout the community is that this is going to be a difficult year in terms of available funding, so everybody is being asked to be very careful and be as efficient as they can in developing their budgets and proposals for presentation. But we're just at the very threshold of that process right now.

MR. DESJARDINS: Mr. Speaker, these people are asked to be careful every time they prepare a budget, but is there any other direction, and their budget mailed back to them . . . because the Honourable Minister knows that the staff must be working on many of them now.

MR. SHERMAN: At this juncture there is no such direction. There's no information that I could give the honourable member in that area. At this point in time, Mr. Speaker, it has just taken the form of the general message and the general encouragement that I referred to.

MR. DESJARDINS: Mr. Speaker, if I may to the same Minister. Do these budgets stay within the department or are they passed on to the Minister without Portfolio responsible for the Task Force.

MR. SPEAKER: The Honourable First Minister.

MR. LYON: Mr. Speaker, we seem to be, somehow or other, engaged in questions from the Honourable Member for St. Boniface and the Honourable Member for Fort Rouge, who both are experienced in the House, in terms of elongating the Question Period to 40 minutes every day, for what purpose I don't know, with respect to — and particularly the former Minister knows — internal policy decisions that are made by every department of government. Now, if my honourable friend wants instruction from me or from the Minister of Finance as to how Estimates are prepared in his time, how they're being differently prepared now, fine, we'd be happy to give him a seminar some afternoon. But it's really not appropriate for the Question Period. My honourable friend will see the Estimates when they are developed through the processes that are now under way by Management Committee, with co-operation from Task Force and so on. When he sees them in March or April, or whenever the Estimates are tabled, then he will know the results of that process, just precisely as we did when he was Minister of Health.

MR. DESJARDINS: Mr. Speaker on the same point of order

MR. SPEAKER: The Honourable Member for St. Boniface has had three questions now.

MR. DESJARDINS: I'm speaking on the point of order that the First

MR. SPEAKER: Does the Member for St. Boniface want to raise a point of order?

MR. DESJARDINS: On the same point of order, Mr. Speaker, that the . . . Well, all right, I want to make a speech like he did, then. Mr. Speaker, yes, I do want to raise a point of order.

MR. SPEAKER: The Honourable Member for St. Boniface on a point of order.

MR. DESJARDINS: First of all, I'd like to say that I had very few questions this session. To say that I prolong the meeting is completely wrong, the Question Period. Secondly, Mr. Speaker, of course these people have been duly elected and they can work their Estimates as they wish. But this is still not a dictatorship and I think the agencies are entitled to find out what they have to do. — (Interjection)— That is a point of order.

MR. SPEAKER: The Honourable Member for Selkirk.

MR. PAWLEY: Mr. Speaker, a question to the Attorney-General. Could the Attorney-General advise whether or not his Executive Assistant was speaking on his behalf when he advised the Uniter, November 30th that he envisioned difficulties as a result of the sharing of commercial assets, for example, a lawyer's practice.

MR. SPEAKER: The Honourable Attorney-General.

HON. GERALD W. J. MERCIER (Osborne): Mr. Speaker, Sir, I was not aware of the comment. The Executive Assistant obviously was speaking on behalf of himself.

MR. SPEAKER: The Honourable Member for Burrows.

Thursday, December 8, 1977

MR. HANUSCHAK: Mr. Speaker, I have another question for the Honourable Minister of Education. In speaking to the same group of trustees, he had called upon the trustees to limit the burden of local property taxes but at the same time he had warned them about increasing education costs and a greater burden on the taxpayer. Could the honourable member indicate the types of taxation that he plans to impose upon the taxpayers to make up the balance of the education costs?

MR. SPEAKER: The Honourable Member for Rupertsland.

MR. HARVEY BOSTROM: Thank you, Mr. Speaker. I'd like to direct my question to the Minister of Northern Affairs and ask him if he has any success to report on his request to the federal government to get action on the marketing and large inventories held by the Freshwater Fish Marketing Corporation, and their apparent hold-back in final payment to the fishermen of Manitoba.

MR. SPEAKER: The Honourable Minister of Northern Affairs.

MR. MacMASTER: I appreciate the question, Mr. Speaker. I sent a telegram to the Honourable Minister, Romeo LeBlanc, in regard to the hold-back of the final payment. It's really of concern to all of us assembled here that what seems to be happening is that the Fresh Fish Marketing Corporation is using the final payment money due the fishermen, which is in the neighbourhood of \$2.5 million for the 1975—76 season, and they're using that money to carry on with current operating seasons, and that is of concern to me, and I'm sure concerns everybody assembled here. I'm sorry to say at this moment that the answer to the telegram came back that the federal Minister is home sick and his Executive Assistant said it will be brought to his attention immediately he returns to the House. Thank you.

MR. SPEAKER: The Honourable Member for St. George.

MR. BILLIE URUSKI: Thank you, Mr. Speaker. I'd like to direct a question to the First Minister. I'd like to ask him at what stage the offer that he made to the former full-time commissioner of the Civil Service Commission stands, right about the time that he was moved from permanent to partial status, where that offer stands?

MR. SPEAKER: The Honourable Member for Brandon East.

MR. LEONARD S. EVANS: Mr. Speaker, I'd like to address a question to the Minister of Northern Affairs. In his capacity as the liaison Minister with the special *ad hoc* committee formed in the City of Thompson with regard to the adverse effects caused by the announced INCO layoffs, or the planned layoffs, can he advise the House whether the committee or he himself, as the Minister of the Crown, are able to recommend, is able to recommend any significant programs to help alleviate the economic distress in which the community of Thompson, if it is not finding itself in now, will soon find itself in.

MR. SPEAKER: The Honourable Minister of Northern Affairs.

MR. MacMASTER: Just to correct part of what you have said. Mr. Speaker, of the 650 people that are to be involved, they hope that 550 of those will be hourly rated people which will be through attrition in the next few months. Yes, I've been in touch with the group that's working in Thompson. They have set up a variety of proposals and at the very moment I am endeavouring to set up a series of meetings with various cabinet Ministers who can meet with them, very shortly I hope, to discuss the applications of some of those proposals and the possibility of implementing them.

MR. SPEAKER: The Honourable Member for The Pas.

MR. McBRYDE: Mr. Speaker, a question again to the Minister of Northern Affairs. It relates to the last question. I wonder if he has considered moving the Resources part of his department or some of those staff to northern Manitoba to help overcome the shortage of employment in that area now. Or would that decision be up to him or up to the Minister without Portfolio II?

MR. MacMASTER: Mr. Speaker, we do have at the moment what we feel is adequate staff in Thompson to handle the Renewable Resources and Transportation Services. This can certainly be taken into consideration.

MR. McBRYDE: Mr. Speaker, I wonder while he's looking at that, if he might want to consider relocating the transportation section of his department into northern Manitoba, where most of their work is done.

MR. MacMASTER: Mr. Speaker, I don't want to run away from it, but I think if you're talking about an entire department, that that would have to be a policy matter.

MR. SPEAKER: The Honourable Member for St. George.

MR. URUSKI: Thank you, Mr. Speaker. I'd like to ask another question of the First Minister. Can he indicate whether an offer was made to the former commissioner of the Civil Service Commission?

MR. LYON: Mr. Speaker, if my honourable friend could be more specific?

MR. URUSKI: Mr. Speaker, my question is in relation to the meeting, I believe there was only one meeting between himself and the former commissioner at the time that the Order-in-Council was passed. Could he indicate what type of an offer, or whether an offer was made to the commissioner?

MR. LYON: Mr. Speaker, I had a private conversation with the former Civil Service commissioner. As far as I am aware, there would be only myself and the Civil Service commissioner who were privy to that. I would not want to . . . Mr. Bedson was at the meeting. Unless my honourable friend has gained information from the former Civil Service commissioner, I would want his approval before I responded to my honourable friend.

MR. SPEAKER: The Honourable Leader of the Opposition.

MR. SCHREYER: Mr. Speaker, earlier in this session I asked the First Minister whether action had been taken to remove the commissioner of the Civil Service Commission. I believe the reply at that time was that there was no removal or suspension and I would like to ask the First Minister, given that reply, and also given the fact that the Civil Service commissioner in question is not functioning, can the Honourable First Minister indicate whether any course of action is being followed to clear up a state of affairs that could only be described as limbo.

MR. SPEAKER: The Honourable First Minister.

MR. LYON: Mr. Speaker' my honourable friend makes an assumption that I'm not aware of, namely that part-time members of the Civil Service Commission are not functioning. I will certainly check into that and let him know.

MR. SCHREYER: I can assure you in advance, Sir, that the question is not satirical, but rather I should like to ask the First Minister if a state of affairs exists in which certain commissioners are not notified, Sir, of the meetings of the Commission, how it can be presumed that they are functioning?

MR. SPEAKER: The Honourable Member for Elmwood.

MR. DOERN: Mr. Speaker, I'd like to direct a question to the Minister of Urban Affairs. Has he had either an enquiry or a request from the City of Winnipeg for financial assistance in regard to a new or expanded arena?

MR. SPEAKER: The Honourable Attorney-General.

MR. MERCIER: Mr. Speaker, Sir, I have not yet received any such request.

MR. DOERN: Mr. Speaker, a supplementary, are there such funds available that could be made available to the City of Winnipeg for an expansion or a new arena?

MR. MERCIER: Mr. Speaker, Sir, I believe the Honourable Minister of Public Works answered that question some few days ago when he said that after eight years in government, there are no moneys available.

MR. SPEAKER: The Honourable Member for Selkirk.

MR. PAWLEY: Mr. Speaker, to the Attorney-General. Will the Attorney-General be meeting shortly as a result of the request which he has received from Parent Finders Organization for a meeting?

MR. SPEAKER: The Honourable Attorney-General.

MR. MERCIER: Mr. Speaker, Sir, I am presently reviewing quite a large file with respect to correspondence that the previous Attorney-General accumulated with respect to that matter and will be reviewing it and probably meeting with that group in due course.

MR. SPEAKER: The Honourable Member for The Pas.

MR. McBRYDE: Mr. Speaker, a question to the Minister of Continuing Education. Maybe he could help me clarify this mystery surrounding these tapes. Were these video tapes prepared by his department for the Department of Municipal Affairs at their request?

Thursday, December 8, 1977

MR. SPEAKER: The Honourable Minister of Education.

MR. COSENS: Mr. Speaker, I understand that these tapes were prepared by a group under the organization of Focus, which falls within my department.

MR. McBRYDE: Were they prepared for your department's use or for the use of the Department of Municipal Affairs?

MR. COSENS: Mr. Speaker, I wasn't aware that they were prepared for anyone's use.

MR. McBRYDE: Mr. Speaker, a final supplementary question to the Minister of Continuing Education. Does he have any knowledge of how the tapes finally ended up with the Minister of Northern Affairs?

MR. COSENS: Mr. Speaker, I have the same information as the honourable member received from the Minister of Northern Affairs just a few minutes ago.

MR. SPEAKER: The Honourable Leader of the Opposition.

MR. SCHREYER: Mr. Speaker, yesterday I posed a question which was taken as notice by the First Minister, but it really relays to the Minister of Finance, assuming he has an opportunity to follow it up. If not, he may wish to take it as notice. And that is to ask whether there has been an opportunity to confirm or ascertain the accuracy of reports emanating from the Minister of Finance, Ottawa, and unnamed federal revenue officials, to the effect that for the third quarter of the fiscal year, there is every sign of an unanticipated increase in revenues generated just as there was unanticipated decrease in the second quarter. Has the Minister had an opportunity to follow up on those reports?

MR. SPEAKER: The Honourable Minister of Finance.

MR. CRAIK: Mr. Speaker, that information, as the First Minister may recall, comes from the federal government, usually late December. So we don't expect to hear the specific figures for about two weeks yet. But I think perhaps this question grew out of the comment from the federal finance minister's office, that the GNP showed a so-called turn around in the third quarter, but it isn't really from indications a significant turn around. It looks like the real growth for the year, rather than being the 2.5 percent that they had originally indicated based on third quarter results would be 3 percent and it does not appear to make a large difference. We do not anticipate that the results on transfer payments from either personal or corporation income tax at the end of December will be substantially different than those that were predicted in the report which we tabled on November 15th.

MR. SPEAKER: The Honourable Member for Rupertsland.

MR. BOSTROM: Thank you, Mr. Speaker. I direct my question to the Minister of Northern Affairs and ask him if it is a policy of his ministry to permit public servants in his department to make what seem to be political statements to the press. My question arises from a newspaper article in today's Free Press relating to the Delta Marsh Project.

MR. SPEAKER: The Honourable Minister of Northern Affairs.

MR. MacMASTER: Mr. Speaker, I haven't seen the article. I don't know what was said but I will look into it for you.

MR. SPEAKER: The Honourable Member for Transcona.

MR. PARASIUK: Mr. Speaker, this refers to another matter that seems to be left in limbo and I direct my question to the minister responsible for the task force. Does the private sector co-chairman report to him or to the First Minister?

MR. SPEAKER: The Honourable Minister.

MR. SPIVAK: Mr. Speaker, the co-chairman reports to the First Minister. The private sector co-chairman has an office in this building and is here on a daily basis. We meet all the time. We discuss various things. If there is something to report, we will report it together.

MR. SPEAKER: Order please.

His Honour, F. L. Jobin, Esquire, Lieutenant-Governor of the Province of Manitoba, having entered the House and being seated on the Throne:

Mr. Speaker addressed His Honour in the following words:

mr. SPEAKER: May it please Your Honour:

The Legislative Assembly, at its present session, passed a Bill, which in the name of the Assembly, I present to Your Honour and to which Bill I respectfully request Your Honour's Assent:

(No. 2) - An Act to ratify an Agreement between the GoVERNment of Canada and the Government of the Province of Manitoba under the Anti-inflation Act (Canada). *To this Bill the Royal Assent was announced by the Clerk of the Legislative Assembly as follows:*

MR. CLERK: In Her Majesty's name His Honour the Lieutenant-Governor doth assent to this Bill.

MR. SPEAKER: Orders of the day. Address for Papers, the Honourable Member for St. Johns.

MR. SAUL M. CHERNIACK: Mr. Speaker, I would ask leave to withdraw this motion on the understanding that I didn't hear the Minister of Industry too well this morning. If I understand correctly from him that he has already complied with the intent of this Address then of course I would withdraw it. He is nodding his head so I am assuming that he has already filed all documentation supplied to him by his staff relating to this. . . work, and I therefore ask leave to withdraw the motion.

MR. SPEAKER: Is that agreed? (Agreed) The Honourable Government House Leader.

HON. WARNER H. JORGENSEN: Mr. Speaker, if we have reached Orders of the Day, I would ask you to call Bill No. 5 and then No. 6. But before I do that, Sir, there is a possibility that the debate on those two measures may be concluded before the end of the day's sitting, as well as the consideration of Bill No. 3 and No. 4 in the Committee of the Whole. In that event, the House will then proceed to Law Amendments and I ask the co-operation of the media and perhaps the Clerk's Office to notify at least a few groups of people who may be desirous of appearing before Law Amendments tonight, in the event that we reach that stage. I don't expect that it will be much before mine o'clock but then anything can happen, and I am hoping that we will be able to be in Law Amendments by this evening.

MR. SPEAKER: The Honourable Leader of the Opposition.

MR. SCHREYER: Mr. Speaker, it is I think fair to say that this afternoon could perhaps contemplate four honourable members on this side wishing to speak and in addition to that there will be consideration in Committee of the Whole stage with respect to two finance bills. It is in a sense reasonable to assume that it may be, it may be that by 9:00 p.m. we will have completed the Order Paper. My concern is practicality of announcing that at nine o'clock people wishing to make a presentation should be prepared to do so. I am not objecting, it's reasonable, but I am concerned as to its practicability. We may finish by nine, maybe nine-thirty in which case would we have people convened for half an hour. I am not making my honourable friend's job any easier but this is the kind of practical problem we face.

MR. SPEAKER: I'm the servant of the House here. What is the wish of the Government House Leader in this regard?

MR. JORGENSEN: I understand there are a number of people who have indicated their intention to present briefs before the committee. Perhaps if a couple of them could be notified to be ready to appear before the committee, in the event that it's necessary, that would be sufficient. I doubt very much if it's necessary for all the people who intend to present briefs to be here tonight because we will not be hearing them all tonight.

MR. SPEAKER: The Honourable Leader of the Opposition.

MR. SCHREYER: That latter suggestion is perhaps the most practical and common sense one in the circumstances.

MR. SPEAKER: The Honourable Member for St. Johns.

MR. CHERNIACK: On the same point of order, I wonder if I could inquire from the Honourable the House Leader, which of the two bills he would have in mind to be dealt with this evening by the delegations.

A MEMBER: There are only two that will be before — well there are three actually, the Marital Property Act, Bill No. 6, the Overtime Bill and the Summary Convictions Act. Those are the only three. I would be surprised if there were any submissions on the Summary Convictions Act and perhaps even if we dealt with that one, if nothing else, it would be at least some progress. But I think that this may be a possibility, that a couple of the people who have indicated their intention to present briefs on the Marital Property Act could be here this evening just in the event we can occupy the time of the committee to good advantage up till ten o'clock.

MR. SPEAKER: Is that fully understood by all members of the House then. We will proceed then with Bill No. 5. The Honourable Member for Wellington.

BILL NO. 5 — FAMILY LAW

MR. BRIAN CORRIN: Mr. Speaker, it is my intention in addressing myself to this bill to be quite short, short not in the sense of being intemperate but short in the sense of trying to expedite the affairs of the House and trying to put the affairs of this assembly in order as soon as possible. I think I can say without reservation or qualification that I share in principle, I share the expressions that have been made by my honourable colleagues on this side of the House with respect to the basic concepts and principles embodied in the two pieces of legislation that are dealt with in the bill. Having said that, I will address myself immediately to the substance of my reservations in this regard.

Mr. Speaker, there's been a good deal of discussion about the inherent defects that are apparently thought by some to be manifest within the two pieces of legislation that were before this House earlier this year. Many members, and I would say on both sides, have expressed reservations. Some have said though that those defects are of such a nature that they can only be dealt with through a thorough review, and others, the preponderance of course being on this side of the House, have suggested that those defects perhaps would be better dealt with in the normal process and perhaps in the coming spring session of this assembly. Now I'm moved by both arguments in a sense, but I say this, if it's logical that these defects be redressed, and I think we all agree if there are defects there should be amendments and revisions. But if that's appropriate I would suggest that we must also consider the possible defects that would be inherent in our suspending the proclamation of the Family Maintenance Act and in dealing with the Marital Property Act as has been suggested in the Bill.

I would suggest, Mr. Speaker, and I do so respectfully, that many people of our province are under a great misapprehension and misunderstanding with respect to what is happening, what is transpiring. I think that there is a certain myopia, and it is possibly common to all politicians because we are so immediate. We're so close to the issue at hand we can't in a sense, being colloquial, see the forest for the trees and *vice versa*. We all take it for granted that it's understood by all the gentlemen and ladies of this province, people who may, or some small proportion of whom, may in fact have matters before the courts or pending before the courts that are relevant to this bill. They do in fact understand what it is that's happening here, and it's presumed that all these people are receiving legal advice that is allowing them to keep abreast of these proceedings. But I suggest, Sir, that that at very best is a very tenuous premise, a very very tenuous premise indeed, because I can say as a solicitor, there is a great deal of confusion among the people of Manitoba as to what exactly in fact is transpiring with respect to this matter. There are many people who rather than believe us — I should say believe the government are willing to merely accept unequivocally that these bills will be repealed or suspended. There are many people of the mind that's only one maybe. There's still common misconception in this regard. I myself have spoken to solicitors who have asked me whether they think that's an impossibility. Frankly, I tell them I don't know. Anything is possible, after all the business of this House is not adjourned. If we're going to go into law amendments presumably there are going to be many interested citizens, representative of many opinion groups who are going to appear there and I think fairly, one can presume that members of both sides of this House are going to listen to the substance of those arguments and conceivably members of this House may be moved to alter their position. So, nobody in Manitoba can say unequivocally out of hand that this is a *fait accompli* this matter is going to proceed as per the bills before this House.

I remind you, Mr. Speaker, and I do so in deference to all the members of this House, I respect the privileges of this House, but I remind you that the administration of justice may well be brought into disrepute if we tamper with these pieces of legislation. People currently have taken positions on the representations made through the media, I might add as well, since I am aware that over 50,000 booklets on the Marital Property Act were distributed in Manitoba early this summer. On the basis of those types of informational pamphlets and their decimation, people have taken certain decisions that will in effect be a great moment in their lives and I am suggesting, Mr. Speaker, it's unfair — I don't want to suggest it's frivolous, but I don't want to suggest that it's capricious either, but there's something in that suggests to me some manifest injustice.

There is something inherently defective in that sort of treatment. We spoke the other day in dealing with a relatively minor amendment dealing with, I believe the Summary Convictions Act. We talked about retroactive legislation and we talked about the inequities of retroactive legislation and apparently both sides again agreed. The former attorney-general mentioned that he'd always had reservations about it, and the current attorney-general as well shared those reservations. That was the substance of the debate. And here we are again, Mr. Speaker, dealing once again with what is in effect retroactive legislation. We are repealing legislation that is enforced in the courts. Matters are at this very moment presumably being dealt with in Manitoba's courts on the basis of the legislation proclaimed by this House, The Family Maintenance Act and people's affairs are being ruled and governed accordingly. I suggest to you, Mr. Speaker, that there is simply something wrong with deviating from that law at this point. People will have rights of appeal based on that. It seems so unfair to me to contemplate the possibility for instance of a wife appearing before the courts today and getting a certain treatment under the no-fault provisions of the Family Maintenance Act, and

another woman coming before the courts, perhaps in two weeks time, and not being able to avail herself of those same provisions that her neighbour bore the credit of.

So, Mr. Speaker, one can contemplate that justice, if it is in fact to be perceived as justice, must be perceived just as that. The public can't perceive that as justice. How can we explain to the one wife — the one wife whose rights have suffered prejudice — how can we explain to her in all good conscience that she's not entitled to the rights her neighbour was two weeks before? It makes no sense, and as a lawyer, I would have no part of that. There is something manifestly wrong with that position. I suggest to you, and I think that many people, after hearing the briefs that are going to be submitted in the next few days, and I presume there are going to be many, I think that many of us are going to have similar reservations. As I suggested earlier, I've spoken to solicitors — colleagues of mine — who are on the horns of thorny dilemmas. They don't know which way to turn. They don't know what sort of advice and counsel to give to clients.

What will be the law? When would it be advantageous to advise the client to take one or other steps under these laws or other laws? I suggest to you, without going into broad detail — expansive detail — Sir, that we're running a great risk. We're running the risk, as I suggested earlier, of first of all bringing justice in this province into general disrepute, and consequently as well, we're running the risk of bringing the affairs of this House into disrepute. It isn't just the former government that passed these laws. That's not so, that's just another misconception. We seem to treat these pieces of legislation as if they belonged . . . that somehow the former government acquired them, had proprietary interests in them, and I suggest to you that that's not the case, that's not our way of government, that's not the style and manner of government in this country, in this province. These laws were proclaimed by all the people of this House. They were the by-product of intensive examinations, and I was moved to hear the Member for Fort Garry last evening describe in great detail precisely what he felt — his most profound feelings — how he felt when the work had been completed. I think he described an evening last June, perhaps it was the early morning in last June, and how he apparently had risen in the House and had complimented all the people on the committee he had sat with, and told them that it was . . . I think he said, and I'm not trying to paraphrase him, it would be unfair, but something to the general effect that it had been one of the most profound experiences of his legislative career.

So I suggest to you, having heard those representations, and knowing that there is confusion in the minds of the public, and that the courts are currently acting under the terms of reference set down by this House, I suggest to honourable members that this matter not proceed, that we step back and take one long rational reflection, consider the impact, the implications, the consequences and perhaps then, in a spirit of temperance, and profound respect — profound respect for the rules of this House and for the people of Manitoba — perhaps then we will all agree, we will concur, we will come to a compromise. I don't know how many times I've spoken about the need for compromise in the few short days of this session. We will come to the compromise that it is in the best interest of our people, people we all serve. No party sentiment I'll place in that respect — I've said that before too. It's in the best interest of those people that we pause and reflect and go about our business in a more business-like normative fashion. Thank you, Sir.

MR. SPEAKER: The Honourable Member for St. Johns.

MR. CHERNIACK: I am pleased that I deferred speaking until now, so that I could hear my colleague, the Honourable Member for Wellington, give what I think is an excellent review of the present situation, and I appreciate his having done so because I don't think I had in mind to do it anywhere near as well as he did. Therefore, I want to jump back to what he spoke about, and point out to you, Mr. Speaker, that it appears to me to be the intention of the government to change some of the principles of the law. I will enlarge on that, but point out in respect to the one feature mentioned by my colleague, the Honourable Member for Wellington, the no-fault feature on separation, that the one person on the other side who spoke with feeling in support of the general principles of this legislation, already expressed a little bit of doubt about that one feature. If we don't have his support, fighting in his caucus for the principles, I think, Mr. Speaker, we are in a very sad state insofar as maintaining the principles of the legislation.

Just carry the picture further — that depicted by the Honourable Member for Wellington — and picture a person who knew the law as it stood, having been proclaimed in this province. The law today provides that there need not be a cause for separation to entitle a person to a separation order' and the law goes further and says that on the granting of a separation order, then there shall be an entitlement to support based on need. So that we can picture a person last week, last month, today, saying: "I can no longer continue to live with my spouse, although that spouse has not been a brutal person, although that spouse is not guilty of adultery, although that spouse is not guilty of failure to support, but that spouse and I have not been getting along for many many years, but that spouse is the person on whom I am totally dependent for support. I married young," let's say, "and I have not had the opportunity to acquire the skills to support myself. But the law now recognizes that I'm entitled to a separation, and to support for a period of time necessary for me to acquire those skills," and therefore the separation takes place, and the order may be granted.

Mr. Speaker, you know what happens? The moment that happens, and when this law in its present form passes, then that person will have lost the rights given to them under the law. That person will now, — not now, but as soon as this law passes and the Wives' and Children's Maintenance Act is brought back in — will now have deserted the spouse, and being the dependent spouse, that person

Thursday, December 8, 1977

has lost the right for support' because the law, as it is being proposed by the Honourable the Attorney-General provides that any maintenance order made shall now come under the law as it was in the archaic days, and as it will become again when it is proclaimed by this government.

That is the picture that we can well see as being a certain possibility. A person who will have acted on the law as it was proclaimed will be prejudiced possibly forever, certainly prejudiced in a very difficult way by the retroactive feature of the government's cancelling a law retroactively and going back to the old law. And that, to me, is so highly irresponsible, Mr. Speaker, that I have delayed speaking until now in the expectation that we would be hearing from members opposite and in the hope that they would be making certain commitments to principle, so that the people who are affected and concerned, from outside of the this Chamber, will have the reassurance of knowing that while they're fiddling and diddling with the legislation as it now appears, at least they would know that there will be a session, and the next session will be the one when there will be a proclamation again of the principles in this law. That's why I believe the Member for Selkirk and I pose specific questions in asking: "Do you agree with certain of the principles?" And if we had had that assurance that they do agree with the principles, then I would have to shrug my shoulders, and like the Member for Fort Rouge, say: "Well, at least they promise to bring it back during the next session and people will suffer a little longer but their rights would not be affected."

But I have every reason to doubt the government's intent, and I have that reason to doubt, Mr. Speaker, for several reasons. One is that we asked for an assurance and we didn't get it. The other is that this happens to be the third time that I am speaking in this session on this subject. Do you remember how we pleaded with the Attorney-General to get up and speak on this subject so we could understand his response before he had the final word? He knew he had the right to speak on a number of occasions. Other members, no one has been barred from the right to speak on this issue. Finally, we heard on one occasion from the Member for Wolseley and then we heard yesterday from other responsible members of the caucus. But, Mr. Speaker, we heard from two members who had voted in favour of the Marital Property Act, we heard from one member who voted against it and of all that I heard, I heard only the Honourable Minister of Health make some commitments, and what were they, Mr. Speaker? They were that he will fight to the best of his ability to maintain and preserve principles enacted in the legislation of last session, and already he backed away to the extent of saying he's not too sure about the no-fault position. And that means to me, and I asked him' if you recall, Mr. Speaker, whether or not he was speaking for the government, and he said: "I may be speaking for the government, but I'm really speaking for myself." And we are still left in limbo.

Now the Minister of Mines has a contribution to make. I will give him the opportunity to ask a question so that he could. . . Oh, well, that's reassuring. I assume I have the right to quote the honourable minister who did not speak into the microphone to say that he spoke for the Minister of Mines. No, I don't have to express my regret yet, because the Honourable the Minister of Mines still has the opportunity to speak, and I invite him so to do, because when I sit down, and before the Attorney-General speaks, the Minister of Mines still has the right to speak, and I wish he would. I wish he would give some assurance that there are people, more than the Minister of Health, and more than the five who voted in favour of it, who are going to support any effort made to fight to maintain the principles.

Well, Mr. Speaker, I just for a moment want to pause on the question of mandate. I think we talked here about whether or not the government had a mandate to rush into the House with a very early session in order to bring in certain legislation, and clearly, Mr. Speaker, the dealing with the AIB legislation was essential. Clearly it was not essential to deal with succession duties, but the government said: "Well, while you're here, we might as well use up the time — while you're here — and get rid of that because that was a campaign promise." The suspension of the Marital Property Act was not a political promise made on the campaign trail by any member of the Conservative party as far as I've been able to ascertain. I believe that they . . . Well clearly they would not have legislated as we did, clearly if they formed the government as they have now, they would have every right to amend legislation — but to step in and retroactively suspend, defer indefinitely, legislation already passed is, I think, abhorrent. And the reason I say they have no mandate to do that, is that it was not, as the Honourable the Minister of Health made clear, it was not an election issue. It was not one that he found, as he went from door to door, was a matter that was burning in the minds of the people he interviewed, and therefore he cannot say for a moment that there was a rush about. But, Mr. Speaker, the rush takes place if the government decides to change the law — not improve the law, not polish the legislation, not take care of anomalies — but to change the law. That is the only reason they would rush it in that much of a hurry. Otherwise if the laws were as badly drafted as they say, there would be some floundering around in the courts, there would be some additional time spent debating in the courts the issues involved but there would not be a damage that is irreparable if the Attorney-General and his group were prepared to come into the next session with amendments for improvement.

Mr. Speaker, they hired a task force, or whatever they call it — the committee — some while ago. If that committee is meeting daily and been putting in full-time, as indeed they should, in the interest of the people affected by these laws, they could have come up with a great deal of legislation even for this session, and I would assure the Honourable Attorney-General, and I've not consulted any members of this caucus at all, but I am convinced that this caucus would be prepared to wait a while, come back in three, four, five days and deal with the matters which no doubt could be dealt with.

So, the fact is, I do not believe the half-hearted lukewarm protest on the part of government that all we want to do is clean things up, that we are still committed to the principle of equal sharing. You

know, Mr. Speaker, the principle of equal sharing is an easy thing to accept providing you put in so many loopholes, and providing you rely realize so much on the old concepts of society and of law that you can go back to the old law without any problem whatsoever. The Murdoch case and other cases that show that when the courts start evaluating, accepting the concept of equal sharing, and then start saying: "What are the contributions?" — and finding they are not equal, the families are in trouble.

Mr. Speaker, another reason why I don't believe the statement that all they want to do is to polish up the act and make it workable, is not only what was said by the Minister of Health, but what was said by the Attorney-General where he's reported to have said he couldn't make a commitment in relation to the equal sharing of commercial assets, couldn't make a commitment and therefore — and the headline is: "Mercier Refuses to Give Commitment on Equal Split of Commercial Assets" — indicates that that too is going to be reviewed.

Mr. Speaker, I want to call to your memory last night's address by the Honourable the Minister Without Portfolio responsible for the task force on reorganization of government, and he made the statement, Mr. Speaker, that the law is so loosely written and is so unconcise, or is the word inconcise, not concise anyway, that he says it leaves too wide a discretion to the courts. He said that, Mr. Speaker. Here we've been getting complaints that the courts have had their discretion removed from them. Indeed, one of the great brains of the Conservative party, and I'm not saying that sarcastically either, one of the leaders of the Conservative party, Graeme Hague, Q.C., whose presence I feel with me in this Chamber almost daily, says in a letter addressed to the Tribune, and I quote, it's a lengthy letter, but he says:

"The inequities of the law respecting family break-up are well documented but are no more inequitable than the blind, unfeeling imposition of a 50-50 regimen from which no relief from hardship is provided. Fairness is not found in legislative or judicial absolutes." Mr. Speaker, I had more respect for Graeme Haig before I read the letter than I had after I read the letter because for a person who poses to comment authoritatively and as a lawyer on the legislation, one would expect that he would have read it, and knowing his intellectual capacity as I do, I would expect that having read it, he would know that there is a great deal of discretion allowed to the courts. Not allowed to the courts, expected from the courts, because there are judicial decisions that must be arrived at based on factors that come before the court which would affect that decision. And, of course, the Minister for River Heights, if I may use the expression of his shorter title, yesterday said that there was too much discretion left to the courts and therefore, when Graeme Haig says — and I quote again — "some judicial discretion is essential," then I have to say to him that he hasn't read the legislation because I believe in some respects there may be too much discretion in the Act but, nevertheless, discretion is there.

And he says, Mr. Speaker, and this I call to your attention because I find it amusing, "The deserving cause of women's rights is ill-served by exaggeration, hyperbole, or error." And I pause for a moment to ask, where have we heard hyperbole? From members opposite who finally rose to speak. Where have we heard hyperbole? From the introductory speech by the Attorney-General to which I intend to refer shortly. But I go on with Graeme Haig. "Let us pray that calmer and more careful deliberation will produce for all Manitobans the sound legislation which the subject matter deserves." Mr. Speaker, do you remember how much time we spent on this legislation? Do you recall how many briefs we heard? Do you recall the fact that many people appeared before three different hearings to present briefs? And of course there was an emotion because this subject is one that touches the hearts of every Manitoban who has any consideration for people, many of whom are in a position of subjugation and of complete control by another person.

Mr. Speaker, I want to deal with the speech of the Attorney-General when he introduced the bill just to indicate to you why I think that it is hyperbole to criticize a bill as he did, why I think it is nonsense to believe that they don't have the intention to dig deep into the bills and to extract therefrom certain principles which they will then throw away. Mr. Speaker, I again pause to note that the Honourable Attorney-General said, "We wish to maintain and protect the principle of equal sharing." The only way to maintain something is to maintain something that is and what is now is a law which they are setting aside, and what existed until we passed the law last June was no equal sharing principle and none to maintain. But he points out three significant areas.

The first is the classification of assets as between family and commercial. Mr. Speaker, that's a problem for the courts. We have defined what is commercial and we have defined that everything else is family which means that there is nothing that would fall in between the two categories — it's either family or it's commercial — and the court, in going into it, looking at each case, will then define and develop a jurisprudence which will determine the specifics in certain matters which are not clear. It is the discretion of the court that it is being left to and yet honourable members opposite claim that it is too rigid and there is no discretion.

He deals with creditor's rights and, Mr. Speaker, in Section 38 of the Marital Property Act, it is clear that all creditors are protected up to May 6th and, Mr. Speaker, it is then clear that creditors after that date have to make sure that they are taking security on assets from people who have a right to give that security as a pledge and to make sure that they do not encumber an asset which really belongs to two members of a marital union, and not get the consent of both.

Then he speaks about potential tax problems. Mr. Speaker, we debated the tax problems at some length in committee and, Mr. Speaker, we made a provision that in the event that there is an imposition of taxation because of legislation of another jurisdiction that the courts in making the

decision regarding the distribution of assets shall take into account the impact of such taxation in making that assessment, so that as equity between the parties involved there is clearly the requirement — not just the discretion — for the courts to make that adjustment based on that. But also there can be mutual agreement which would then take care of these possible problems that have been raised. Let me tell you, Mr. Speaker, I practiced law since the 1930s and I have done very well in that respect and, Mr. Speaker, I tell you that if you let legislation and legislative problems fall into the hands of lawyers alone you're in serious trouble, Mr. Speaker. Every lawyer is trained to find every possible way to get around, to discuss, to debate, to twist, the law as it appears in order to make a point he wants to make and that's his training. Mr. Speaker, the problem of taxation — to the extent it is a problem, and it is in certain respects — can be dealt with by two parties who take proper consultation and do take proper precautions in the way they share the property. But I think it is very unfortunate, Mr. Speaker, if the law of a federal jurisdiction, in regard to taxation, is considered a barrier to giving people within Manitoba equal rights to assets acquired during the time that they shared their homes. But yet it is the impression I have from the government that the . . . no, I don't mean the impression, I quote the Attorney-General. "The legislation should not become law without some commitment in writing to the government of Canada so as to ensure that Manitoba citizens are not penalized tax-wise because of this legislation." He says here that he believes, it seems to him, that it should not become law unless the federal government consents to writing a letter of commitment.

Well, Mr. Speaker, I would hope that laws are passed here that are equitable in rights without regard to whether or not another jurisdiction decides to smile favourably on the legislation that appears before us and it seems to me that it is the Attorney-General who is letting the federal government make the decision as to whether or not this law will be proclaimed. And yet, the Member for Fort Rouge who has a special pipeline apparently to the federal government, has given some sort of assurance that an application would be looked at favourably in that case from the Attorney-General. I'm not yet sure the extent to which the provincial government has made an effort to get that legislation varied by the federal government.

He deals, Mr. Speaker, with insurance policies and pension plans, and if I understand the legislation properly this problem would be one that the courts would deal with. They would determine the nature of the assets, into which category it falls, and how it is to be divided in an equitable way. I will trust the courts, Mr. Speaker, something the Attorney-General may not wish to do, otherwise why should he have to rewrite legislation? Why should he have to order the courts when indeed the courts are given the discretion and the power to make the separation in an equitable way.

I go on, Mr. Speaker, I'm afraid that I might run out of time. He speaks about — now really it takes a lawyer to say, "Oh, but look the legislation doesn't say this law affects people who are resident in Manitoba." If it doesn't say that, then of course it could by inference affect the people who have married and live in Timbuktu, and then that lawyer comes along and says, "Well, that's a problem," he says. Well, I don't believe that our courts will assert their jurisdictional power over people who are not within their jurisdiction. But if you look for something to say, you can find it.

He speaks further. . . oh, I'm jumping now, Mr. Speaker. He says that he has some doubts — don't quote that correctly — but he speaks about . . . here it is Section 2, I think he means Part II, discriminates between void and voidable marriages, and now he is righteously indignant on behalf of parties to avoid marriage and he asks the question, why should a person induced to enter into a former marriage formal marriage by the wrongful misrepresentation of another be deprived of rights? If the Honourable the Attorney-General feels so strongly about parties to avoid marriage, amend the law. Make it apply to void marriages but you don't suspend the law or repeal the law because it doesn't cover as much as you want it to do, so don't raise a red herring — and it's only a coincidence I used a red pencil to underline that, Mr. Speaker, — don't raise a red herring by saying the law doesn't go far enough. It doesn't go far enough? Make it go further. You don't cancel it because it doesn't go far enough, but let me say that I think the law generally is that a void marriage is a non-marriage that never was a marriage and if you want to give rights for misrepresentation — even today our common law provides damage rights, compensation for people who are wrongfully brought into a contractual relationship.

Then he speaks about retroactivity and, Mr. Speaker, I need only say that it applies only to people who are still married and declares only what we all seem to agree is only right and fair, equal sharing.

I go on, Mr. Speaker. He deplores the fact that the legislation appears to discourage attempts at reconciliation. Why, Mr. Speaker? Because if you find a couple that separated prior to May 6th, they don't have any rights for sharing but, Mr. Speaker, if under this present law they come and live together and have a reunion, then they do come under the law and he says, "Oh, now they won't do it. Now they will be afraid to do it." Well, Mr. Speaker, I do believe — and I have had a great deal to do with attempting to reconcile couples who have separated — that when they come together they should come together knowing and understanding the new concepts that are being brought to them, that they have a proper appreciation of what they're doing, and one thing they ought to know is that if they are coming together in the form of a trial reconciliation they should have an agreement affecting that and an agreement is exactly what is provided for under this Act.

Then, Mr. (2) Speaker, what does he say? "Section 3 of the Act is particularly vague and its purpose difficult to determine." You know what that says, Mr. Speaker? That says that if there is a marital home, which means that it belongs to the couple who are married, and it is registered in the name of another, then that marital home shall still be covered under that section even though it is registered in the name of the other. As long as it is owned by one of the two parties and it is the home

which they occupy as their home. The Honourable the Attorney-General says that's vague and difficult to determine. Not for him, Mr. Speaker, I believe he never looked at that section properly. I believe he was reading notes of what somebody said to him looking for trouble and, if I'm wrong, then I must say to the Honourable the Attorney-General study a little more, read a little better and you will understand.

He speaks again that the Maintenance Act does not provide any grounds upon which a spouse is entitled to apply for an order of separation. This results in a possible requirement of accounting of commercial assets at any time. Mr. Speaker, I don't believe he read the Act thoroughly because he could only get an accounting of commercial assets if there is an Order of Separation and that Order of Separation is made under the terms set out in Section 19 so there cannot be a requirement for an accounting unless there has been an Order granted or the parties have been separated for six months. So let him not mislead himself into thinking that this is irreparable. The fact is it is clearly set out and can be changed only if it is necessary to do in order to achieve greater equity. You know, Mr. Speaker, he says that some of the commercial assets should not be restricted to debts and liabilities of a spouse. Mr. Speaker, if he believes it let him change the Act. Why cancel it? Why repeal it if it doesn't go as far as he thinks it should? Change it, amend it, we are here for that purpose. That's why we are legislators.

Then he goes on, Mr. Speaker, he speaks about the definition of what is financial independence. Mr. Speaker, we discussed it at great length and if the honourable member read the Act, I hope that before bringing in the legislation he also read the deliberations that had taken place by all of these committees that studied it and would know what was discussed about financial independence and the fact that what is financial independence for a person in a certain economic strata may be luxury for a person in a low strata or may be poverty for a person in a high strata. So who would decide? Legislation? Is the Honourable the Attorney-General or his committee of three people so capable, so competent, that they can actually define what shall be financial independence and, failing to do that does that then mean that a person should not be expected to attempt to achieve financial independence? I think, Mr. Speaker, that we have enough respect on this side anyway, in the courts, that the courts will be able to determine what is financial independence in relation to the couple whose affairs they are looking into at the time and jurisprudence develops from the fact that courts make decisions, courts of appeal review the decisions, confirm them or vary them, other courts in other cases review the decisions and gradually we get a body of law built up. Mr. Speaker, if the Honourable the Attorney-General wants a ready-made body of law then he'd better go to a jurisdiction that does not have respect and confidence in our common-law system because that is the only way you can be reasonably sure that equity will continue to be achieved by the parties to a marriage.

Mr. Speaker, he then speaks about "maybe the Court of Queen's Bench should have been included." Well, maybe they should have been, so include them. You don't repeal a law because the jurisdiction is limited to two courts and you think there should be three courts. That's just an excuse, Mr. Speaker, and that's what brings me to feel that the government doesn't care about the people who are affected and the government as such — and I don't know if they've caucused as such — but certainly the leadership in the government as evidenced by a number of members opposite is not happy with the law. They will pay lip service to equal sharing but they will not undertake to see to it that people get it in the best way possible. And I've come to that conclusion because of the way it is being presented and the lack of the assurances on those principles that some of us felt we ought to do. So they lean on things like, oh, the Legal Aid director said that it would bankrupt the Legal Aid Program in short order. Of course, now the Honourable the Attorney-General did, and I'm pleased he did, produced a letter from the executive director who says he did make reference to the possibility, not he thinks the probability, of a substantial financial impact. He says, and I quote, "My use of the word bankrupt was a piece of hyperbole which should not be taken as a prediction or as a probable result of that Act." But, Mr. Speaker, the important thing is, that in the protection of the rights of individuals, the costs of litigation should be the least important and not the most important, and bankruptcy of the government program should not determine the rights of individuals as between themselves. I think, Mr. Speaker, it would be an awful pity if a good law is repealed and set aside because the budget of the legal aid will go overboard because the budget of the legal aid is there in order to help people protect themselves when they don't have the financial capabilities so to do.

So let me conclude, Mr. Speaker, by saying that the Honourable the Attorney-General being a lawyer of some experience should know that he need not follow and be too much influenced by what other lawyers have to say in relation to their own problems, like Mr. Mercury of the Bar Association who says that it would be difficult to advise the client as to his or her marital status. — (Interjection) — Oh, so the lawyer will have difficulty advising them. Why? Because the body of law has not been developed. If lawyers could advise their clients correctly every issue that's involved, they would hardly ever be in court. It is only because there are differences between them in their interpretation of the law that brings matters to court and it is there that the courts make determinations which are recorded, which are available for posterity to look at, and which will determine then, for them, the way the law is tending. Our law is a living law and it is one which develops with the changing times and we are really, although we were the forerunners on this continent in the Marital Property Law that we brought in, we are still behind where we ought to be in relation to the rights of individuals. I'm proud that we were involved. You, Mr. Speaker, must be proud you were involved in that progress. It would be an awful pity if my predictions are true and the government backs away from what is right and proper in order to serve the concerns of the few.

MR. SPEAKER: The Honourable Attorney-General will be closing debate. The Honourable Member for Rupertsland.

MR. BOSTROM: Thank you, Mr. Speaker. Before the honourable minister closes debate, I would like to say a few words on the bill before us. It is the first time I've spoken on the legislation before us. The members of my party I believe have put forward the positions very eloquently that we are concerned about. The Conservative position, as I have been listening and reading the debates, seems to be that the legislation that is presently planned to be enacted is unworkable. Mr. Speaker, I do not believe this to be the case. Many of the lawyers who have commented on this legislation have commented that it can work, it can indeed be a workable, useful piece of legislation and any amendments that need to be made can be made in the course of the working of the legislation. Amendments could be brought in at the next session, Mr. Speaker, which would satisfy any of the requirements for modification of this legislation.

Just recently, Mr. Speaker, the legal aid lawyers of the province who, by the way, handle about 80 percent of the clients who would be dealing with the new Family Maintenance Act, have made the case that this Family Maintenance Act should be maintained in place. They believe that it will cause greater hardship for the people that they are dealing with if we have to go back to the old law.

I submit, Mr. Speaker, that the reason, the concept put forward by the Conservative administration that this legislation is unworkable is an excuse, it's not a reason. It's not a valid reason for pulling back on this legislation. An excuse, Mr. Speaker, is to cover up their real reasons for opposing the legislation and cancelling it at this point in time. We believe the law should be tested and amendments brought in at subsequent sessions of this legislature to deal with any problems that may result from the workings of the legislation.

If the problems are their real reason for holding back on the legislation, Mr. Speaker, then they're attacking the problem all wrong. They should be establishing a special committee of MLAs who could be assisted by the Legislative counsel that are already employed by the government. If they are interested in the restraint measures as they say they are, these people could be retained and working on the legislation at very little extra cost. The extra cost of maintaining the MLAs in a special committee could be well worth the effort of shaping up and sharpening up any problems there might be with the existing legislation.

Mr. Speaker, the Conservatives claim they have a mandate for changing, pulling back on this legislation. Well, Mr. Speaker, during the election campaign, as has been pointed out here already by my colleagues, the Conservative Party was conspicuously silent on this whole issue of family law legislation. If they really felt that they wanted a mandate to pull back this legislation and change it, they wanted to be the crusaders, Sir, for bringing in better legislation, why did they not raise it as an issue? Why did they not put it into their election pamphlets and election material? Nowhere to my knowledge did any Conservative candidate anywhere in this province raise this as an issue during the election campaign. I believe, Mr. Speaker, that we should call a spade a spade and describe the real reason why the Conservative Party is pulling back on this legislation at this time. Mr. Speaker, the wealthy people of this province are the holders of the large commercial asset and they, I would imagine, to a man oppose this type of legislation and the understandable reason is that people who have large commercial assets don't relish the idea of having, in the event of marriage breakdown, to have to share these assets with a spouse. These are the same people, Mr. Speaker, who bankroll the Progressive Conservative Party and, Mr. Speaker, this is one way that they're calling in their debt. This is proof, Mr. Speaker, that these people control the party and are telling the party at this point in time that is forming the government that this legislation should be pulled back, that it should be either thrown out or it should be watered down so that the particular section relating to the sharing of commercial assets will either not be in there or it will be in there in such a form as it will not have any real meaning. Mr. Speaker, I submit this is the real reason that we have this bill before us to suspend this legislation.

We have the new Attorney-General trying to be vague about the plans of the government. We have him reported as saying that he's not sure about the sharing of commercial assets so he's already flying that trial balloon to see how it will work. He's already saying to the media, Mr. Speaker, that he's not sure the legislation will be ready for the spring session. Well, Mr. Speaker, we take the position, and it should be clear from all of the comments that have been made on this side so far, that this legislation should be enacted as scheduled and the reason is that there is no real need for suspension at this time. Public hearings have already consumed three years of study. We've had a Law Reform Commission that has had public hearings all over this province. We've had the MLAs working almost in a non-partisan fashion in its special committee holding public hearings all over this province, coming up with what is an excellent piece of legislation. I'll join my colleagues, Mr. Speaker, in calling on the Attorney-General to clearly state and I hope that he will prove the comments that I have just made wrong. I hope that he will clearly state his government's position on this issue.

Mr. Speaker, I'll outline the principles which I would like to hear him say that he is in agreement with, and which they do not intend to discard in the rewriting of this legislation. Number one, Mr. Speaker, relating to the Marital Property Act, does he agree that the family house which is purchased for marriage should be jointly owned by the couple? Number two, Mr. Speaker, does he agree that property acquired by either spouse during marriage will be jointly shared, except for gifts,

inheritance, and so on? Mr. Speaker, number three, does he agree that property not used to produce income is jointly owned if it was jointly used by the couple during the marriage? Number four, Mr. Speaker, does he agree that property used to produce income, commercial assets acquired during marriage, such as bank accounts, bonds, apartment blocks, businesses, etc., are shared only if a couple separates, but they will be shared on a 50 - 50 basis in the event of termination of the marriage?

With respect to the Family Maintenance Act, Mr. Speaker, does the Attorney-General agree that custody of children will be decided by the judge in the children's best interest? Number two, that the parents are equally responsible for the support of the children up to the age eighteen, even if separated! Number three, Mr. Speaker, does he agree that maintenance should be decided by a judge with consideration of living costs, financial circumstances, and need for providing stable environment for the child, and that this maintenance should be decided on need, not on fault? Mr. Speaker, does he also agree that on separation, each spouse will be expected to attempt, within reason, within a reasonable period of time, to become financially independent of the other spouse?

Mr. Speaker, many fears and doubts in the minds of concerned Manitobans and in the minds of those of us on this side of the House would be alleviated if the Honourable Minister, the Honourable Attorney-General would respond to this challenge, and agree with these points as I've outlined them. We can only assume, Mr. Speaker, if they do not do this, that they don't agree with these principles. We must assume that they want to either throw out the legislation altogether, or to bring it back in some watered-down form with these principles not intact.

I believe, Mr. Speaker, that the Conservative government doesn't want this legislation. They're going to attempt to kill the legislation, either through watering it down or not bringing it back in. They want us to stay with the old legislation — they're happy with the old legislation, obviously — I have to assume this since they chose as their legislative draftsman a gentleman by the name of Ken Houston, who has made his position clear on this legislation. He has said to the committee of MLAs, and I quote: "The whole premise of my comments was the law is presently sufficient, and as far as I'm concerned, the legislation is unnecessary." Does the honourable gentleman Ken Houston, does he speak for the Conservative government in putting together this legislation? Are these sentiments that he has already expressed going to be enacted in any new form of legislation that is brought forth by the Conservative government?

Mr. Speaker, I believe this is the kind of advice the Conservative government is actually looking for, and I believe it's the kind of advice they're going to accept — the kind of advice that Mr. Houston has to offer. The people of Manitoba, Mr. Speaker, as has been eloquently expressed by my two colleagues today who spoke on this bill, are going to have to suffer with the old legislation, with its outdated principles, and the dismal record of its application in the courts of this province.

In closing, Mr. Speaker, I express the hope that I am wrong in assuming these things about the present government, and I hope that they will prove my assumptions wrong. However, I challenge the Attorney-General to state his position on these principles of the legislation clearly and unequivocally.

MR. SPEAKER: The Honourable Attorney-General will be closing debate on Bill No. 5. The Honourable Attorney-General.

MR. MERCIER: Mr. Speaker, Sir, I want to perhaps begin my remarks by indicating, Sir, I have great respect for women. While I was a member of City Council, Sir, I had the privilege of serving with a fellow counsellor, Laurie Cherniack. While we had great difference of opinion with respect to political philosophies, Mr. Cherniack, Laurie Cherniack, always conducted himself as a gentleman and a statesman, and despite those differences of opinion we always remained good friends. And I can only assume, Mr. Speaker, those were attributes he received from his mother.

Mr. Speaker, the Honourable Member for St. Johns is just one example, I'm not going to comment, Sir, on all of his suggestions with respect to the concerns that I indicated have been expressed with respect to the legislation. But he made one particular comment about a concern I had expressed about a lack of time during which people might have an opportunity to become reconciled, and failing reconciliation, that in that period of time that would not affect the applicability of the legislation, and he seemed to indicate that that wasn't quite right. I want to point out, Sir, that . . .

MR. SPEAKER: Order please. May I interrupt the Attorney-General to welcome to our Chambers the Consul-General of the Polish People's Republic, Tadeusz Janicki, and the Canadian Consul Eugeniusz Panek. On behalf of all members, we welcome you.

The Honourable Attorney-General.

MR. MERCIER: Mr. Speaker, I was commenting on the Honourable Member for St. Johns comments about lack of the provision for reconciliation. I want to point out to him, Sir, that during my practises in family law, I found that in the Wives' and Children's Maintenance Act, because there was no similar provision for a ninety-day period for reconciliation in the Wives' and Children's Maintenance Act, as there was and is in the federal Divorce Act, I wrote to the then Attorney-General, Mr. Mackling at that time, and made that suggestion that that kind of an amendment should be made to the Wives' and Children's Maintenance Act, because it would assist in reconciliation; because in my experience, many people were very, very reluctant to engage in any reconciliation process because of the legal results that flowed from it; and the government of the day, and the then Attorney-

General made that amendment to the Wives' and Children's Maintenance Act, Sir, and I consider that was a wise amendment to the act. In the same way, Sir, I suggest that the kind of concern that I express with respect to that provision would be a valuable one.

Sir, I want to indicate firstly that this government, despite comments from members opposite and various members of groups, are committed to bringing into the spring session of the 1978 legislature the amendments that we deem suitable to the family law legislation. And let there be no doubt, Sir, that those amendments will be brought into that session of the legislature. —(Interjection)— The Honourable Member for St. Johns referred to the comments of the executive director, and I think, Mr. Speaker, during question period, I elaborated on the transcript of the seminar on family law that was held by the Law Society, in which Mr. Larson had stated that he thought the act stands a good chance of bankrupting Legal Aid in about six months. I think that I agree with the Honourable Member for St. Johns that a mere procedural matter, as this really is, should not delay the introduction of this kind of legislation, but it's a point that has to be made that more lawyers will have to be consulted earlier in the process, and there will be an additional expense. But again, I agree with him that that should not be a reason for deferring the legislation, if it is good and valid legislation.

I want to comment for a moment, Mr. Speaker, with respect to the comments of the Honourable Member for Selkirk, with respect to the tax implications. The Honourable Member for Selkirk pointed out that there was a tax benefit to Manitobans resulting from the passage of this legislation, and that I should not suggest that the taxation problems were purely in the negative nature. I want to point out, Mr. Speaker, that he picked from a 14-page report one paragraph in which it was pointed out that there may be a tax benefit, while the remainder of the 14-page report pointed out nothing but tax problems. —(Interjection)— We will deal with Fort Rouge in a minute.

With respect to the Honourable Member for Fort Rouge, Mr. Speaker, he indicated that no steps at all had been taken to get the federal government to make the necessary tax changes. I want to point out, Sir, that the previous Attorney-General, the Member for Selkirk, gave to Mr. Basford a copy of the tax report in June 24, or his report dated June 24 was given to him on June 29. He subsequently wrote Mr. Basford on July 13th. The Honourable Roy McMurtry, Attorney-General of Ontario, wrote to the Minister of National Revenue on September 20th with respect to this problem. The Honourable Alex Campbell, the Premier and Attorney-General of Prince Edward Island wrote to the Honourable Ron Basford in November. But it is a matter of record, Sir, that responses from the federal government were received on October 11th from the Honourable Jean Chretien, over two months after the former Minister of Finance had written to him, and that the Honourable Ron Basford only wrote to me in response to Mr. Pawley's letter on November 14th, over four months after he was contacted by the former Attorney-General. Mr. Speaker, if these required tax changes are so small and relatively simple, as stated by the Honourable Member for Fort Rouge, why has it taken so long for the federal ministers to even respond, and then only to tell us they're studying the problem?

Mr. Speaker, I want to indicate to members of the assembly I spoke to the Honourable Ron Basford on December 5th, this past Monday, after attempting for a few days to telephone him, and in fact he did telephone me from outside of Ottawa. He indicated, Sir, that the amendments to the Income Tax Act are traditionally only brought down in the Budget Speech, and that he would respond to me shortly after he returned to Ottawa to discuss this matter further with Mr. Chretien, but indicated that it would be quite unusual for income tax amendments to be brought in at the current session in the manner suggested by the Honourable Member for Fort Rouge. At the same time, the Minister of Finance has given me a report indicating that Mr. Basford is not in a position to make a commitment on behalf of the federal government, he certainly has done so personally. We appreciate that, but the federal Finance Minister is the one responsible for this tax policy, and they are apparently still carrying out their review of the tax implications of the family law legislation. They afterwards intend to review that with the National Review Department, with the Justice Department, and they intend to go through a process of assessment of these recommendations, and the information that I have through the Minister of Finance is that the initial discussions between the various departments will not be completed for at least two or three weeks.

I want to point out, Mr. Speaker, that we are not the only province in Canada that are requesting income tax changes in order to put into effect matrimonial property legislation. Virtually every other province in Canada is doing the same thing, and have proposed or have enacted subject to proclamation, and this kind of legislation are awaiting the changes that have to be made to the Income Tax Act in order to bring this kind of legislation into effect.

The Honourable Member for St. Johns indicated that it would be inequitable for us to wait for the federal government to make these changes. Quite to the contrary, Mr. Speaker, I suggest that it would be inequitable to introduce into effect the legislation without the required tax changes.

Sir, I want to review again some of the tax implications with respect to this legislation. As I indicated earlier, the report from the tax consultant retained by the previous government was given to Mr. Basford in June, and the tax consultant has subsequently advised that the legal officers of the Department of Justice have confirmed his opinion that the vesting of immediate ownership rights in the non-registered spouse constitutes a disposition under the Income Tax Act by the registered owner, and therefore there may be an approved capital gain and the registered owner's spouse would be required to pay tax on the difference between his cost to the particular assets and its fair market value. He's commented previously, as I indicated to the House, Mr. Speaker, that the effect of the rollover provision of the Income Tax Act, which leads to very complicated tax situations where we deal with deferral of realization of capital gains or losses until the property is disposed of, the loss of

capital cost allowance, adjusted cost basis and attribution of income. It would appear, Mr. Speaker, that the attribution of income under Section 74 of the Income Tax Act would result where property is transferred to a spouse before divorce, whether by agreement or court order, whereas a court order vesting property in the spouse directly would not result in this income attribution. I appreciate, Sir, that the information that I am giving to the House is complicated, and members should appreciate that it is complicated, but unfortunately those tax implications were not considered when the bill was passed and when it was proclaimed. The Marital Property Act permits spouses to own more than one marital home at the same time which causes tax implications. Marital homes are deemed to be owned jointly and equally by the spouses. With regard to family assets, furniture, furnishings, cars, boats, cottages, each spouse is deemed to be the owner of an undivided one-half interest. The home and family assets may be eligible for income splitting but the commercial assets are not, so that transactions involving different assets owned by the same tax payer would be treated in a different fashion. It may lead to attempts by taxpayers to convert commercial assets into family assets under certain circumstances in order that a more beneficial tax treatment will be achieved. There are tax implications that are created from the conversion of family assets to commercial assets and then their reconversion to family assets.

All of these and other tax implications, Mr. Speaker, may be very significant to a sizeable number of Manitoba citizens. We want to ensure, Sir, that Manitoba citizens are not penalized in taxes because of family law reform. We must determine just how far the federal government is prepared to cooperate with us before we bring this legislation into force. I've commented previously on the problems with respect to insurance policies and pension plans. There is, Mr. Speaker, an interesting letter to the Editor in the Winnipeg Tribune today by two female lawyers which is rather lengthy but in which some comments, very relevant comments are made with respect to this legislation. The letter to the Editor is headlined Present Legislation Would Create Hardships and Injustice. I don't know either of the letter writers but they do make some interesting comments. —(Interjection)— She may have, but I wasn't a member of the caucus. They suggest that the consequences of the immediate vesting are horrendous. I am not going to go into all of the problems that are raised, Mr. Speaker, but they go on to indicate that the fact are that the NDP government and womens groups are responsible for any delays in the implementation in this legislation. The NDP government neglected to codify the proposals of our law reform commission until the last session of the legislature, in May 1977 and then, Sir, did so with indecent haste and reckless disregard for the consequences. Amendments to the bill were handed out only . minutes prior to the Law Amendments committee meeting convening. Moreover the NDP government rejected many of the commission's recommendations. I would say, Sir, that this is in support of the comments of the Honourable Minister without Portfolio responsible for the MHRC, who commented last night.

They go on to comment about the seminar on October 15th, of Manitoba Law Society for some 500 lawyers at which a panel of acknowledged experts in the field of family law struggled to interpret what is alleged to be "the best family law legislation in Canada" for their colleagues. They were unable to agree on such basic points as whether a registered retirement savings plan was a family or a commercial asset. At the hearings they say when one of us personally raised the problem of categorizing of insurance, registered retirement savings and pension plans she was advised by the government that this was not a problem. Subsequently . . . —(Interjection)— that's correct, nine judges couldn't agree on the AIB legislation, Mr. Speaker, but I suggest, I suggest, Mr. Speaker, if the government hadn't sat on the fence and had followed the course that they were advised to do by the legal officers of the Attorney- General's department they would have saved many many unions in Manitoba a great deal of legal expenses in not having to go to court, and as far as the supreme court, to fight a decision for no worthwhile purpose at all.

MR. SIDNEY GREEN(Inkster): How do you know how the new legislation will be interpreted? How do you know they will be able to agree on that.

MR. MERCIER: They go on to say in their letter, the last quote I'll make, Sir, is that it has been clear to the Conservatives and other responsible individuals that to put the legislation into force in its present form would create injustices and hardships and in some cases lead to costly litigation.

A MEMBER: There is no injustice now though with this whole law.

MR. MERCIER: I might, Sir, point out in passing that the repeal of the Succession Duty Act and the Gift Tax Act at this session of the legislature are being very much welcomed by many proponents of the legislation who have been concerned for a number of years about gifts, particularly gifts between husbands and wives. There has been, Sir, concern expressed about the enforcement of maintenance orders and the former Attorney- General has been kind enough to discuss this matter with me, Sir, and that is something which I intend to follow up and hopefully be able to be in a position to improve that situation.

The question, Sir, has often been asked — it has been asked in this House and outside of this House — What am I committed to? I want to say, Sir, that I recognize the value of a woman's work, whether that be in the home or whether that be in the market, place as equal to that of a man, Sir. I think, particularly as an aside, I think politicians, whether they be male or female, particularly at times like this when our occupations take so much time and we are away from our spouses and our families so much. I think we, probably more than any other group of people, recognize the value of efforts of

our spouse which results from our absences away from home and I think perhaps that may be part of the reason why the issue was handled so well, as I understand, by the legislative committee during the last session for which they were and have been commended and which I hope will continue in the future.

I want to, Sir, assure the House that the principles of equal sharing between marriage partners will be applied and as a result the amendments will be applied clearly, will be applied understandably, will be applied

unequivocally, and that it will be realistic legislation and practical and fair legislation. I must in passing, Sir, comment on the remarks of the Honourable Opposition House Leader, the haggard fellow in the front row, who suggested that I looked haggard last night. I too agree with some of his personal concerns and again, these are personal concerns and probably will not affect any amendments that are brought forth. I agree with his general philosophy about injecting into the private lives and private decision-making of people some of this legislation. To me personally, and again I say I don't think this is a personal view point and these are not that significant, but to inject into legislation provisions, for example, in a Family Maintenance Act, specifying personal expenses, specifying financial information to be given by spouses living together, Sir, I find repugnant. I think people living together are well able to make those decisions themselves and as the Honourable Member for Inkster said, if the sanctity of marriage or the well-being of marriage in this province requires this kind of legislation in order that spouses can live together happily, then we are in a very great deal of difficulty, I suggest, Sir. I suggest that in any situation where spouses have to use this kind of legislation and apply to court for an order to get this kind of information or to get a personal expense allowance, there's a lot of problems in that marriage and this legislation is not going help it in any way whatsoever. I say, Sir, it has apparently been agreed upon and I am not going to continue that debate any further.

The Honourable Member for Inkster indicated two principles which he felt were the basic principles behind the legislation. The first one that he indicated was marriage is an equal partnership. I agree with that, Sir, and I think most, if not all members of the House, would agree with that. He indicated, Sir, that the second principle was that property acquired during the marriage by the spouses should be shared equally, and I agree with that, Sir, particularly with respect to family assets. I don't think anyone would disagree with that. The question of commercial assets has been mentioned, Sir, and I would point out that when I was asked the question whether I agreed with 50-50 sharing of commercial assets, I said no, and the previous government didn't agree with it either. That's why they included a section in that Act that allows some little discretion in what I admit to be extraordinary circumstances, and Sir, that particular section is one where concerns have been expressed and where I have, in introducing this bill and expressing concerns, the only practical problem being that of how quickly do those property rights vest and over what period of time are they to be paid out. And it may be, Sir, that there are practical and realistic problems in implementing that kind of sharing immediately.

There's been comments or questions with respect to no-fault maintenance. In my personal experience, Sir, I would agree with the question or the fact that an order for separation generally should be available on a no-fault basis, because I have seen the difficulties that are caused by one spouse having to prove fault in a family court where it's very difficult. I agree it's very difficult to determine fault because what seems to be a very outlandish act is sometimes caused by numerous incidental acts on the part of the other spouse, so it is difficult, Sir, to apportion fault.

There is one problem though Sir, has been indicated in this letter to the Editor in which fault is still a provision in the Divorce Act and how is that question to be reconciled with Family Law legislation in the province of Manitoba. There is also the question that no one should go away thinking that there will be no question of fault in matrimonial proceedings because by virtue of the wording in the Family Maintenance Act — the word used is the judge "may" make an order, and then outlines a number of things that can be done, one of which is an order for custody. Sir, when you get into custody, I am sure the Honourable Member for Inkster and Wellington and St. Johns in their experience will agree that that's where some of the most vicious arguments and disputes between spouses take place. So this legislation, Sir, is not doing away with fault.

One of the concerns expressed, the Honourable Member for Fort Garry, the Minister of Health and Social Development, indicated his concern with no-fault maintenance. The Law Reform Commission did recommend, Sir, not the same standards of fault that we've had in the past but a situation in which the concept of a paramount fault of a spouse could be used as a basis, I suppose, for those very small number of cases where someone, on a whim or someone without any consideration whatsoever for the spouse, deserts a spouse or commits some other act which has formally been a ground for separation. In view of the position of the Honourable Member for Fort Garry, that is a matter that will have to be dealt with. I want to say though that generally I agree with the position that fault too often has been looked at too closely in marital situations. But perhaps for that very small number of cases where there is what is referred to in the Law Reform Commission Report as paramount fault, that that will be reviewed and legislation will be brought in that may deal with that. I'm not making this commitment that that will happen, I'm saying, Sir, that that will be reviewed and I don't want to unduly restrict the report of the review committee who have been given a certain job to do.

Sir, in the last there has been support for the position that our party has taken. The president of the Manitoba Bar Association, Sir, said in a statement, this past Tuesday, it was reported that . . .

A MEMBER: I wonder if the Honourable Member would permit . . .

MR. SPEAKER: Order. Order please. The Honourable Member for Inkster with a question.

MR. MERCIER: I will accept a question at the end, Sir.

MR. SPEAKER: The Honourable Attorney-General.

MR. MERCIER: Sir, there was quite a lengthy news article indicating support from the president of the Manitoba Bar Association, who, although he indicated support for the basic principles of the legislation said there was no doubt that the legislation, the way it is presently drafted, could cause needless and expensive litigation. He went on at length to describe that, Sir, but certainly indicated support for this position because of the lack of clarity of the legislation. In addition, Sir, I have received a letter from the Estate Planning Council of Winnipeg, who are most concerned with the Marital Property Act and feel that it is very difficult to administer and they are in favour, I believe, of the deferral.

Mr. Speaker, Sir, the Family Law Review Committee, I expect, Sir, to complete their review some time prior to the end of January. There has been discussion, much discussion about the personal philosophies of members of that Family Law Review Committee, Sir. I want to say, Sir, in their support, that they've been involved in family law litigation for a good number of years and they've been hired as lawyers, Sir, they've not been hired to propose or advance any personal philosophies. There is a legal review, Sir, and I have every confidence that they possess a sufficient amount of expertise to do a good job with respect to this matter. That review should be completed by the end of January, Sir, and I would repeat again, that we will undertake here to do everything in our power to bring in whatever amendments we deem suitable in the spring session of the 1978 Legislature.

Sir, it appears to me that this whole subject was dealt with very well in the committee stage at the last session of the Legislature, almost on a non-partisan basis, as people from all political philosophies have united throughout the province in support of reform of matrimonial property legislation, and I agree there is reform and I believe this party believes in the need for reform, Sir. I look forward to working with such a legislative committee in the next session to ensure that the best possible law, practical and realistic and fair for all Manitobans, will come into force in 1978, Sir.

MR. SPEAKER: The Honourable Member for Inkster with a question.

MR. GREEN: Mr. Speaker, the Attorney-General indicated when he closed his remarks, he would permit a question: I would like to question specifically with regard to the letter from the President of the Manitoba Bar Association.

MR. MERCIER: Mr. Speaker, I do not have a letter from the Manitoba Bar Association; I was reading from a newspaper article which he can have if he wishes.

MR. GREEN: No, Mr. Speaker, if my honourable friend is relying on that newspaper article as being one of the points to advance his argument — I'm not suggesting if he didn't have it that he would say anything different, but if he is relying on it, then I would like to ask him whether he would check with the Manitoba Bar Association whether that letter is not directly in conflict with the Bar Association Committee which was considering family law, which said that the legislation should be proceeded with and that there should be no suspension of the legislation at this time. —(Interjection)— The Manitoba Bar Association. I would like the honourable member, who is perhaps a member of the Bar Association, to check to see whether the President's letter is directly in conflict with the committee that was given the task of dealing with this question.

MR. MERCIER: Mr. Speaker, Sir, I am not in any way relying only on the comments of the President of the Manitoba Bar Association. I can assure you that there are many, many other reasons, most importantly, the tax implications for bringing this bill before the House. —(Interjection)— I was just looking in the newspaper article if he did make a reference to the Family Law subsection; he has, Sir, and it's very difficult to read. But he said, "it is the opinion of many lawyers in this province that the legislation, the way it now stands, is unworkable. If legislation is enacted it could result in defeating the purposes originally contemplated." I'm not certain whether he's speaking on behalf of the Family Law subsection, but I can certainly check.

MR. GREEN: Mr. Speaker, another question. I raised the first one merely because the Honourable Attorney-General would want to know what authority that letter has, since he used it. Secondly, Mr. Speaker, in terms of hiring counsel who are hired as lawyers and have no subjective opinions on questions, is the Attorney-General telling this House that if he sought advice on Industrial Relations Law, that he could hire Leon Mitchell or Dick Hunter, either one of them, both being lawyers, that the information they would give would be clinical and would have no subjectivity to it.

MR. SPEAKER: May I suggest to the Honourable Member for Inkster that that question may

argumentative.

MR. GREEN: Mr. Speaker, on the point of order, the reason that I raised the question is that the Attorney-General said that Mr. Houston and others who were hired were not hired because of their opinions, but because they were lawyers, and I, in clarification, am asking him whether the subjectivity of a lawyer will not possibly be felt in the opinions that he expresses. To put the question, I asked him whether, if he was seeking advice on labour relations, he thinks that he would get the same legal advice as to how the law should be drafted if he hired Leon Mitchell or Dick Hunter.

MR. SPEAKER: Are you ready for the question? The Honourable Member for Assiniboia have a question?

MR. PAWLEY: Yes, to the Attorney-General if he would agree to a question. The Attorney-General referred to a letter of June 24th dealing with tax implications from Mr. Goodwin and to my speech. Excerpts taken from I wonder if the honourable member could refer to the page in which he suggests that my comments were taken from. Secondly, at the same time, whether the honourable member could advise whether or not subsequent correspondence and communication was not received by him from Mr. Goodwin as to the date that he first corresponded with Mr. Basford re the tax implications.

MR. SPEAKER: The Honourable Attorney-General.

MR. MERCIER: There was a report, Mr. Speaker, by Mr. Goodwin, to the best of my knowledge on June 24th, and another one in October, and the information I had is that the former Attorney-General personally delivered the report dated June 24th to the Honourable Ron Basford at a conference of Attorneys-General at the end of June 1977. I would ask him to repeat his first question.

MR. PAWLEY: The first question related to the references made by myself as to unintended tax benefits and suggesting that that was taken from the report of June 24th, which was referred to as a 14-page letter. Could the honourable member refer to the page in which I took those excerpts from?

MR. SPEAKER: If the Honourable Attorney-General would indicate whether or not he is willing to provide that information, I think we can go on with the orders.

MR. MERCIER: I'm willing to provide that information as soon as I get a copy of the report out.

MR. SPEAKER: Are you ready for the question? The question is on the motion of the Honourable Attorney-General on Bill No. 5, an Act to Suspend the Family Maintenance Act, and to defer the coming into force of The Marital Property Act, and to amend certain other Acts and make provision required as a consequence thereof.

QUESTION put, MOTION carried.

MR. JORGENSEN: Yeas and Nays, Mr. Speaker.

MR. SPEAKER: Call in the members.

Order please. The question before the House is the adoption on Second Reading of Bill No. 5.

A STANDING VOTE was taken, the results being as follows:

YEAS: Messrs. Lyon, Enns, Jorgenson, McGill, Craik, Sherman, Spivak, Mercier, Downey, Ferguson, Johnston, Cosens, Banman, MacMaster, Ransom, McGregor, Blake, Gourlay, McKenzie, Brown, Minaker, Domino, Driedger, Orchard, Anderson, Hyde, Galbraith, Wilson, Kovnats, Mrs. Price.

NAYS: Messrs. Schreyer, Evans, Uskiw, Green, Pawley, Miller, McBryde, Desjardins, Uruski, Bostrom, Fox, Walding, Doern, Hanuschak, Axworthy, Adam, Corrin, Cherniack, Barrow, Parasiuk, Jenkins, Cowan.

MR. CLERK: Yeas 30, Nays 22.

MR. SPEAKER: I declare the motion carried.

BILL NO. 6 — AN ACT TO AMEND THE EMPLOYMENT STANDARDS ACT

MR. SPEAKER: The Honourable Member for Wellington.

MR. CORRIN: Mr. Speaker, this bill is based on the proposition . . .

MR. SPEAKER: Order please. I want to apologize. I believe the Honourable Member for Flin Flon

had a request to make.

COMMITTEE CHANGES

MR. TOM BARROW: Thank you Mr. Speaker, I just wanted to make a change in Law Amendment Committee. I would like to have the name Cherniack replace that of Mr. Boyce.

MR. SPEAKER: Agreed? (Agreed) The Honourable Member for Gladstone.

MR. JAMES R. FERGUSON: Mr. Speaker, I also have a substitute in Law Amendments. The Member for Wolseley for the Member for St. Matthews.

MR. SPEAKER: Agreed? (Agreed) The Honourable Member for Wellington.

BILL NO. 6 (cont'd)

MR. CORRIN: The interruption gave me, in my short legislative career, the unprecedented opportunity to have two thumps. It should be noted for the record. It's the only time I've had any thumps whatsoever, Mr. Speaker. —(Interjection)— I may get some.

Mr. Speaker, this bill is based on the proposition that the comparative economic situation of Manitoba can be enhanced by the reduction of overtime rates of pay. Therefore, I wish to talk generally about the far-reaching implications of that sort of proposition. I would submit it is my opinion, Mr. Speaker, that this bill will not enhance the comparative economic situation in Manitoba, but rather will deteriorate the comparative status of Manitoba's people. And I say that because I believe that this bill should be taken in the context of two considerations.

Firstly the health and social costs that will be entailed as a result of its enactment. I believe that the natural implications that will flow from the reduction of overtime rates of pay will be the requirement that employees work more hours, and I think this will entail certain health and social costs. There will be safety implications in the workplace and so on. My other general consideration to which I wish to address myself, is the disincentive to employment. I say that because we are now I think broaching a critical situation in this province. Unemployment has risen to an unprecedented high, and in that respect I think we must always give credence and consideration in any bills before this House, in any of the business before this assembly to possible adverse ramifications to the employment status of Manitobans. I might say also, by general preface, that conceptually I believe that it is the right of every Manitoban, nay, the right of every person regardless of where they live, to work and to do a type of work that is constructive and creative and that will lend to their well-being and their welfare because work is not something that has of its very own nature something intrinsically beneficial. I suggest that it's through its by-products that its benefits are to be found. So I suggest, Sir, that we must take into consideration the individual's right to work when giving consideration to the ramifications of this Act.

Having related those very general concerns, Sir, I would turn to the more specific and it is my intention to deal with several statistics, matters which I have been able to do some research on because I think the implications in the former regard, health and social costs, are borne out in examination and close assessment of those statistics. Sir, I draw your attention for instance, and it's something that I note with great interest that apparently research into standards for exposure to hazardous chemicals and noise are currently based only on a 40-hour week and I suggest, Sir, that we venture forward in giving this disincentive, or in making this sort of proposition, we venture into a very precarious situation, Sir. We don't know what the implications of more working hours will be because, after all, the standards are not adduced on the basis of anything more than the current standard 40-hour week. I should note by way of passing that prior to 1969, the minimum standard week, to the best of my recollection, was 48 hours for males and 44 hours for women so although progress has been slow, there has been progress made in the past eight years and I am of the mind that it's not conducive to progress to pass legislation that will entail people, or necessitate people working longer hours.

Now, I also looked at the ramifications of technology because as we all know, in the past number of years, the past generation or so, the changes in technology have been incredible; they've been a mess and inherent in that are matters that have never come to our attention before — I suggest, for instance the recent problems that have been encountered with nickel dust, silica, asbestos — and we now have a new disease, a disease we never heard of before, asbestosis. I would suggest that inasmuch as this seems to be the case, it seems to me that it's imprudent and improvident for us to take these risks entailed in additional overtime when there well may be these types of health costs that will be caused as a result.

I can think for instance, generally thinking, I have the privilege, Sir, of having a small property in the country and my neighbour there works in a pulp mill. Over the years, he developed symptoms which his doctor told him was the result of the nature of the work he did in the mill. Slowly, as a result of an evolutionary process, this man lost the hearing in one of his ears.

I would say that the technology is increasing the risk so shorter hours actually make sense. We also have to consider that in the light of recent developments in technology which have made the workplace more productive. I might say, interestingly enough, in that regard, I might even quote

Thursday, December 8, 1977

someone whom I think all members would recognize as perhaps being an authority or if not being an authority at least having some credibility. Perhaps members on the other side, as a matter of fact, would be more inclined to share his position than the members on this side and that's Mr. John Bulloch, the president of the Canadian Federation of Independent Business. In an address on November 21st of this year to Queen's University, Commerce Faculty, Mr. Bulloch indicated as follows. He suggested that technology has created centralizing pressures. The emphasis of the technocrats has been on creation of fewer and bigger factories to service increasingly larger markets. For some reason, he said, the engineers never asked whether bigger was necessarily better from social or efficiency points of view. I suggest, Sir, that that is relevant to our discussion in the context of this bill because most certainly, Sir, many of the most recent developments in our technology were never contemplated and as a result, or I should say, the implications of the developments in this technology were never contemplated. Bigger is not necessarily better. I agree with Mr. Bulloch. What seems at first glance to be a good idea, more efficient, doesn't necessarily enhance the lives of working people or any people for that matter. Even those who perhaps can't agree with the social ramifications of Bulloch's suggestion might agree with the others. You know, the nature of our economy has perhaps deteriorated as a result of recent developments in technology and perhaps people who have had a background in business can witness that.

We've spoken so much about family farms and the need to preserve family farms and yet, you know, what has happened? Facts are borne out, as evidenced in debate before this assembly, that many farmers are being dispossessed of their lands by large farming corporations and in many cases by foreign farming corporations. So I suggest to you, Sir, that it's a matter of great concern not only to myself but all our people.

I also draw your attention — I mentioned social costs. It's perhaps not coincidental that there's been such an apparent rise in social disorganization manifested in things like child abuse, alcoholism, drug abuse, marital breakdown. The times would appear to be changing but I would suggest that these may be a by-product, a manifestation of the rapid changes in our society. Productivity is not necessarily progress. You know, those who subscribe to that sort of ethic are even today I think now motivated to moderate their position. Productivity, if it means physical disabling of working people, cannot in any way be equated with progress. That doesn't follow. I am not suggesting that it is not proper to have an ethic surrounding work but I am suggesting that we have to view that in a perspective and, Mr. Speaker, if I might, I'll even relate statistics which were drawn to my attention through the Honourable Minister of Labour. The Minister of Labour recently indicated that she found that the number of injuries and fatal accidents in the Manitoba mining industry was an important matter and she suggested herself that it was an important matter which requires some attention. She promised, as a matter of fact, in discussing this matter with the press and other representatives of the mining industry, she promised that she would be giving consideration to appointing a commission to study the problem.

MR. SPEAKER: Order please. The hour being 5:30, I'm leaving the Chair to return at 8 o'clock.