# Legislative Assembly of Manitoba

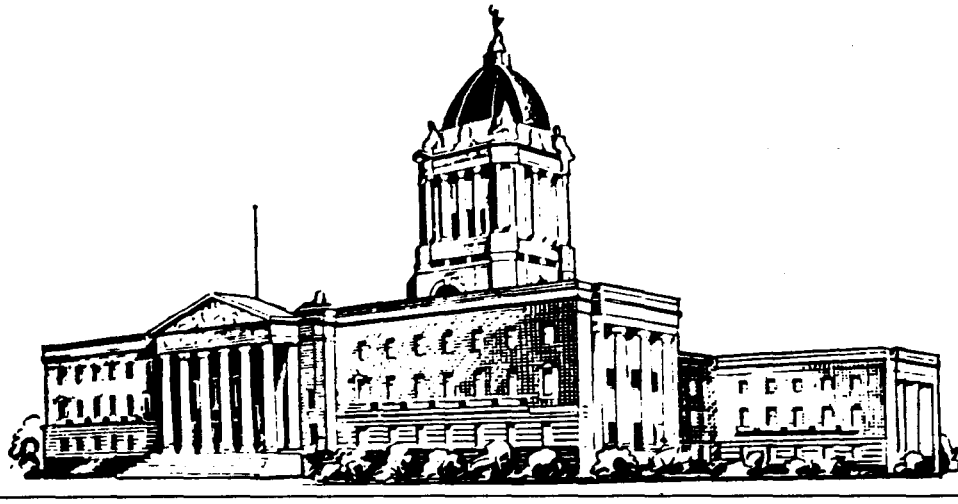
## STANDING COMMITTEE

## ON

## STATUTORY REGULATIONS AND ORDERS

**Chairman**

**Mr. Warren Steen**
**Constituency of Crescentwood**



**Tuesday, July 11, 1978 8:00 p.m.**

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# Hearing Of The Standing Committee
# On
# Statutory Regulations and Orders

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**IR. CHAIRMAN, Mr. Warren Steen .**

**IR. CHAIRMAN:** Committee come to order. The first person on our list is Mrs. Beverley oodwin.
Mr. Cherniack.

**IR. CHERNIACK:** Mr. Chairman, I understand that there are two people who wish to present briefs. hey are numbers 36 and 37 on the list. I'm told that they have come 200 miles to make their resentation on behalf of the National Farmers' Union and tomorrow they are tied up preparing or tomorrow evening's committee dealing with agriculture. I propose that it will not be as great hardship on others who are planning to speak tonight if we can fit them in sometime during the vening. I wonder, Mr. Chairman, if you could arrange with other people who are slated to speak iis evening and shuffle around.

**IR. CHAIRMAN:** I've been informed that Mrs. Goodwin cannot stay very long tonight. Is that true? erhaps we could fit them in right after Mrs. Goodwin.

**IR. CHERNIACK:** Oh, sure, they've said any time this evening, Mr. Chairman.

**IR. CHAIRMAN:** All right. We'll start with Mrs. Goodwin and then we'll go with the other ersons.

**IRS. BEVERLEY GOODWIN:** Thank you. I have copies of my brief.

**IR. CHAIRMAN:** Mrs. Goodwin has copies for the committee. I hope Mrs. Goodwin that you can ay as close to the 30 minute time limit as possible.

**IRS. GOODWIN:** I've timed it.

**IR. CHAIRMAN:** You have eh? That's very good. You can proceed any time that you're ady.

**IRS. GOODWIN:** Fine, thank you. Mr. Chairman and committee members. This brief is presented you tonight in the spirit of good faith, as an expression of my concerns which have developed ver a period of many years. I hope that you will receive this brief in the same vein as it is resented.

I would like to introduce myself as Mrs. Beverley Goodwin, a resident from the constituency of iel. It has been a long ten years since I first became involved with the issue of family law and has become a long, hard struggle, one which I now find distressing because we are once again rappling with the issue which many of us felt had been resolved sufficiently one year ago.

I am married and I believe marriage to be a desirable state in which to live for some, however, ot for all. I had always considered myself equal in marriage, not better than but equal to my husband. was not until I began to question where I fit into the stream of things that I found that society id not view me as equal to my husband in marriage. When this all began, I recall quite well the at reaction from many friends, particularly male friends. "Don't worry your pretty little head. You ill be looked after." Well, time has proven that there is indeed plenty to worry about if you are male, married and do not have a marriage contract.

At the time of my initial involvement, it was explained to me that the only way in which to correct ie inequity which existed was through the political process. I had an elected representative who

made the laws to reflect the values of society and it was through that elected representative th the laws were changed. Laws were not made from behind the scenes as I had thought, by lawyer The lawyer's role was that of interpreter of the law. I hope this fact will hold true.

This legislation was not intended for those who will live happily ever after in marriage. It is intend for those marriages which are devoid of trust, to protect values which society, and I trust, you belie are sacred in marriage. That marriage is a relationship of trust. To people have made a commitme for better, for worse; for richer, for poorer; in sickness and in health; to love and to cherish, a all my worldly goods with thee I share.

In 1971, the census reported that 91.4 percent of the population were Christians and it is the Christian solemnization of matrimony that the vows are exchanged "And all my worldly goo with thee I share."

Most married people do not question the validity of these vows because they believe them. is only when a marriage is unstable that the law of the land comes into play at which time individua realize that their vows are not substantiated by law. At times, legislation lags behind the valu of society as a whole which is understandable when laws are old and outdated. However, wh legislation is updated and lags, such as Bills 38 and 39, it is intolerable.

Women in Manitoba will be walking a tight-rope with this legislation. They simply will not kn where they stand in their marriage until such time as the relationship is in jeopardy. Marria breakdown, for whatever reason, is not a happy occurrence, however, we must acknowledge th just as some business partnerships terminate for various reasons, so do some marriages. Therefo adequate care must be taken to assure the protection of the values held by a greater majority the population, that being the principle that marriage is an equal partnership.

I ask, if this legislation was a business contract that you were going to be held to in the absen of an agreement, would you be satisfied that you may use and enjoy the business establishme until the termination of the partnership; that you may use and enjoy the business assets duri the business partnerships; that you are not permitted joint ownership rights, however, you reta joint responsibility to the assets; that your business partner can sell, lease, mortgage, hypoth8ca repair, improve, demolish or otherwise deal with or e dispose of the asset to all intents and purpos as if the Act had not been passed; that upon the termination of your business relationship, a numb of factors will be considered by the court to determine whether you will be entitled to an eq share of any share of certain assets, one factor having regard to any circumstances the court deer relevant, which could include your conduct?

I would suggest that none of you would be so foolish as to jeopardize your future with this ki of a relationship, with built-in insecurity, however, this is precisely the situation Manitoba wom will find themselves in unless they have a marriage contract.

With amendments, this legislation is not going to weaken the institution of marriage or the fami The family is in jeopardy because of the prevalence of divorce and the absence of responsi legislation to back up marriage. Strong equitable legislation will place a price on the pastime divorce. Without strong family law in the province, I suggest that many women will continue to li in a state of uncertainty and insecurity which can only hinder the quality of family life. The repe legislation was equitable, a law against greed. The legislation is not equitable; it perpetuat greed.

I am suggesting that this legislation must carry the principle of partnership, equality and justi from its first statement to the conclusion. Society has never concerned itself with the after-effec of marriage breakdown, the effect breakdown and fault has on the spouses and the children, t effect fault has on the prospect of reconciliation, the effect fault has on how individuals percei themselves, the effect fault has on how the community perceives the spouses, whether fault w the cause of the marriage breakdown or simply a means to an end, whether the use of fault w make better individuals out of the spouses, so as they may re-enter the mainstream as responsi citizens. Or, does fault bring the worst out of all of us?

If this legislation is to be truly effective, there are questions you should be asking or you sho be asking when making the appropriate changes. Traditionally, women have not been familiar wi the ropes of the system, such as when to seek legal advice, where to go to seek legal advice. Al housewives don't have income. How will I pay for legal advice, etc? Most people and particula women, look to the laws for misplaced protection, not realizing that laws are not and were n God-made but man-made and therefore carry the prejudice of man.

I will not duplicate my remarks in dealing with fault and conduct in the area of maintenan and the sharing of the commercial assets as my reaction to the use of the principle of fault remai the same.

From the Canadian Bar Review, March, 1978, I quote the following: "The fault concept has alrea disappeared in a number of jurisdictions and is under attack in others. human cravings. He crav acceptance from somewhere so he acquires friends that are less than desirable. He craves affecti so he lives common law and the consequences of that union — children. The family gets the torme

if not knowing whether he is dead or alive and wonder if there could not have been another way.

You call it justice, fairness and commonense. With all due respect, I suggest that in light of this example, and others, I would call it injustice, insensitivity and lunacy.

I suggest that the use of conduct is destructive, pitting individuals against one another, individuals who, at one time, felt affection for one another. Assessing a fault only serves to complicate the relationship between spouses and the children. Hard feelings, bitterness and hate are generated by this sytem, making reconciliation a pipe dream. There is a saying "a law for the rich and a law for the poor." Well, in the past, in the absence of grounds, or to protect the reputation of an individual, grounds have been created for the sake of facilitating a divorceand to accommodate the system. Prior to 1968, those individuals unable to provide evidence of grounds were unable to get a divorce while, since then, those unable to pay the price of a speedy divorce have had to wait for three years in the absence of grounds.

Some individuals may have prospered — lawyers, detectives, and the courts have been kept busy. Money, of course, went to the co-respondent, however, I'm not too certain how cautious these individuals had to be before the reappearance of their names would raise suspicion. The people who were involved in these shenanigans were placed in the position of having to create fault, accommodating the system, a practice which only served to weaken the system and lessen respect for the court. I realize that many on the inside will react "collusion", and I suggest that most individuals on the outside would react, "So what?"

If the court is not representative of the values held by society, why respect the court? It is up to the courts, through you, our elected representatives, to see that the laws reflect society's values and in this case case, they sily do not. As an offshoot of the practice of collusion, I wonder if you have considered the possibility of a spouse framing the other spouse in order to get grounds which would be sufficient to vary the division of commercial assets or to decrease the payment of maintenance. I realize that this concern sounds very devious, however, as previously mentioned, this legislation is not required for the marriage which dissolves amicably.

I view the use of conduct as totally irrelevant and offensive. Not using conduct as a basis for calculating maintenance and the sharing of assets does not suggest that society condones permissiveness. It acknowledges that irrespective of conduct, the responsibility to provide maintenance and share the assets equitably remains.

The marital home and family assets are there by virtue of the contribution of both spouses. The Survey of Consumer Census reports that home value comprises of 59.1 percent of the total household assets and mortgages on owner occupied homes made up 69 percent of the total measured household debt.

The National Finances, 1977/78 reports that 90.59 percent of the taxpayers have a taxable income of less than $20,000.00. Therefore, I suggest that in most instances it is only through the team effort that the majority of families accumulate their assets.

So I ask, what is the problem with immediate joint ownership? We're not advocating the sharing of inheritance, gifts, etc., we're advocating the sharing of assets which are accumulated during the marriage.

Today, 48 percent of married women work outside of the the home and their income has been known to be used primarily for family related expenses. Today, it is a common practice for couples to purchase their family assets through time payments and once again, this requires sacrifice on the part of both spouses in dealing with the responsibility to the debt. Both spouses usually sign the contract for payment, however, this does not necessarily entitle both spouses to the right of ownership. If payment is defaulted, both spouses stand to lose the asset, so the joint responsibility remains for the payment of the debt.

In effect, women in marriage have been pawns, exploited in the system. It is through women that many of these assets are acquired, their income, co-signing or foregoing of beneficiary rights in insurance policies, etc. The asset must be registered or intended for joint ownership before it is jointly owned, a factor which few married women are aware. Ideally, marriage should be a sharing between two people, not an owning, manipulating and stifling relationship, which could evolve with this legislation.

Section 13(2), Discretion to Vary Equal Division of Commercial Assets, completely destroys any presumption of 50-50 sharing. I suggest that this section can only serve to further weaken the fibre of family life in this province. It is often through the sacrifice of both spouses that a man gets his start in business. Although the wife may not be directly involved with the business, her supportive role and in many instances acceptance of converting family assets into cash for the business collateral have given many the opportunity of becoming financially successful in business. Without this support, often the business would not get off the ground.

I realize that discretion to vary would be a consideration when family assets are a contributing factor to the initial beginnings of a business, however, the time factor and other circumstances would

certainly influence an equitable settlement.

I have often suggested that marriage can be a contract of broken promises, and 13(2) provid a lot of room for that. The owning spouse can promise the moon before or during the marriag however, if the non-owning spouse cannot prove this promise, what has she or he got — nothin Anyone who has owned a puppy can appreciate the problem of assigning ownership when the d has misbehaved. It's our dog until it wets inside the house. It's your dog when the mess has be tidied up.

Well, a similar problem exists in marriage. When the marriage is in a state of good health, t assets are our assets. It's our car, our home, our children. However, in contemplation of separati or divorce, possessiveness surfaces and what used to be ours becomes mine. It's now my car, n house and my children, etc. you In marriage, wives are the first to know how little have and t last to know how much.

50-50 sharing must be incorporated into this legislation, ideally, at the beginning of each marriag When there is nothing to share, there is no problem over ownership, and therefore it is desirat at the beginning to establish sound ground rules which will help to create a more stable foundati for the family and the marital relationship.

Many people have said to me: "My wife and I are happily married and are partners." I find the remarks encouraging, however, suggest that "talk is cheap," without a contract in writing, eve wife is vulnerable to the very concerns which are being raised during these hearings.

When a marriage breaks down, the battle lines are drawn and all that is left of the marria are the children and the assets. Therefore, these will be the things which are going to cause t greatest trouble. Quoting from the Canadian Bar Review, March 1978, I would like to put forwa the following on Judicial Discretion. "Primarily, a court is a machine for dispute settlement. Normal for example, in commercial cases, it does this according to general rules or legal principles, so th similar cases will be decided in similar ways. But in family law areas, such as custody and suppo the principles are so general that they constrain little or nothing. The judges operate mainly discretion, which refers them ultimately to their own standards. The theory is that specific rules a undesirable because families and family problems are so varied. So virtually there is no social poli in these matters beyond the reference of the issue to the judge and the judge's own reactions any evidence, arguments or reports that may be presented to the court."

An example of where a judge applied his own standard is taken from a Decision in the Co of Queen's Bench, dated September 1974. In the matter of The Married Women's Property A Turcheniewich vs Turcheniewich. This is an application by a wife for an order admitting her to share in property owned by her husband.

The Decision in part reads — and I quote sections from it — "as with many other couples similar background and circumstances, their marriage was not enlivened by holidays shared togeth the giving and receiving of presents, or delight in the entertainment of and in being entertain by their friends." and it goes on, "evidence was inconsistent with any view of their relationship exce as an uneasy truce." And again, "Unhappily, her demeanour and personality observed throughc the course of this litigation, do not persuade me to credit her story as being, on the balance probabilities, an acceptable recital of the history of their relationship."

Mrs. Turcheniewich lost her case, and I do question under the circumstances as a housewi how she could have contributed to their marriage by enlivening it with holidays and the giving gifts, and the entertaining of friends in the absence of income.

Heaven help the women if this is what judicial discretion is all about.

I believe it unfortunate that our legislators leave such a large part of the onus on the judge determining these matters. Without legislative direction they have no option but to lean to their o standards. Although the collection of maintenance is not provided for in this legislation, I wo like to take a moment to address myself to this matter. From "A New Law of Maintenance" I quo "Something is profoundly wrong with a body of law and practice that fails to attain its object m often than it succeeds. Failure is the universal characteristic of the traditional system for enforci maintenance orders in Canada. With a few notable exceptions in recent years, apathy has be the companion of failure.

"Reform involves two courses of action. First, there must be an effort by the government Canada to improve individual laws and practices that deal directly with maintenance enforceme Second, the whole body of marriage breakdown law must be thoroughly reshaped. It is as m the traditional fault, and adversary foundation of this law, as it is the particular deficiencies enforcement techniques that accounts for the appalling record of non-payment of maintenar obligation in Canada."

From the Canadian Bar Review, March 1978, I quote: "Complete information is not availat but all the indications point to a high failure rate in paying under financial support orders and inde the level of failure suggests that the court-based system is an inefficient and expensive way supporting family dependents after a marriage breakdown."

As you know, three out of four maintenance orders in this country are not fulfilled. Not to mention, hose spouses who don't bother in the first instance to obtain a maintenance order. Quoting from 'A New Law of Maintenance" again: "In 1975-76, the Province of Alberta gave financial assistance o mothers with dependent children to the tune of $52,745,822, while the recovery rate showed 32,634,534 from husbands and fathers. These figures do not account for the costs incurred for the ecovery."

When maintenance doesn't arrive, or is late, what do you do about such matters as the hydro, phone, heat, health related expenses, clothing, and food? Can you imagine? It becomes a luxury or you and the children if you can scrape together sufficient money for an ice cream cone on a ıot day, while it is not uncommon to hear that the other spouse is out buying another round for he boys.

Default is a serious problem, a problem swept under the rug for too long, and one which I hope his government will deal with immediately.

I fully realize the intention of Section 10(2) Penalty, when a spouse is in violation of an order estricting entrance to the premises of the other spouse; and Section 26, Penalty for default under rder. However, I do wonder whether incarceration will further delay the payment of maintenance, hus causing further hardship upon the dependent spouse.

I took it upon myself to contact Headingley Jail, to enquire as to what the policy would be in uch instances. Where a person is convicted and is an infrequent or first time offender, the in the ront doo out the back door policy would be applied. It is called temporary absence program and ıelps to keep the population down at the penitentiary, and also in the case of a offender with outside mployment, it would provide the opportunity to retain his job.

So it would appear, that the exercise of pursuing the errant spouse through the court system vould ultimately be in vain, taking a great deal of time and money on the part of the dependent pouse, which is normally the female and she doesn't have either, and also expense to the taxpayer or naught.

Mind you, in times of high unemployment, the offender would be provided with a roof over his ıead, and apparently if he shows signs of being industrious he would be entitled to earn from 60 ents to $1.00 per day at Headingley or else up to $3.00 per day if he works in the bush, plus neals. Compulsory saving of one-half of the earnings would be employed for the time of his release, ınd even if garnishment were possible, it would not be worthwhile.

So, I ask : What is accomplished by incarceration — who gains?

Quoting from "A New Law of Maintenance:"

"Many husbands and fathers who do not pay on support orders generally are unable to do so. Many of them are chased away by fear of going to jail for non-payment on support orders and heir children are deprived of paternal affection because of the poverty of their fathers."

In closing, I urge you to provide for immediate joint ownership of the marital home and family ssets, and the deferred sharing of commercial assets with limited judicial discretion in Bill 38, The Marital Property Act.o$

and in Bill 39, The Family Maintenance Act, I urge that the conduct clause be removed. Greater mphasis be stressed to overcome the problems of default in maintenance, and I suggest you econsider the merits of incarceration.

In an address given by the Honourable Ron Basford, Minister of Justice, to the Joint Session f the Conference of the Association of Family Conciliation Court and the Conference of the Family aw Section of the British Columbia Branch of the Canadian Bar, May 19, 1978. I quote the ollowing:

"In this country, the legislative jurisdiction over family law matters is divided between the arliament of Canada and the Legislatures of the provinces, undoubtedly creating problems, but roblems that I am convinced public policy makers must overcome, in my view, can overcome. The eeds of the family surely override intergovernmental jealousies and legislative chauvinism.

Keeping in mind the need to preserve the integrity of the family as a fundamental unit in our ociety, we must ensure that the economic incidents of divorce are fair and equitable. Our ıaintenance and marital property regimes must recognize that homemaking and child-rearing are artnership activities entitling the non-wage-earning spouse to a share in the assets accumulated uring the marriage."

I ask that, during your deliberations, you retain your perspective when determining these laws. . crime has not been committed. Two people have come to the conclusion that their marital elationship must be terminated — for whatever reason. The reason should be of no concern to ıe courts, other than in instances where constructive guidance can facilitate reconciliation.

We are all losers if this legislation does not reflect the principle of marriage as a artnership.

It is only when this legislation recognizes both spouses as equals that justice will be enshrined ı the statutes of Manitoba. Thank you.

**MR. CHAIRMAN:** Mrs. Goodwin, would you permit questions?

**MRS. GOODWIN:** Yes, certainly.

**MR. CHAIRMAN:** Mr. Cherniack.

**MR. CHEIACK:** Thank you, Mr. Chairman. Mrs. Goodwin, you know that when you have 50-oc briefs you expect to hear some repetition, but it is refreshing to know that almost all briefs ha some nuance or difference that makes it worthwhile to hear, and in your case, firstly, I'd like thank you for your research and all your footnote statistics, which I think are very helpful, and suppc your last line on Page 18, or second last line, that you ask that during our deliberations we reta our perspective when determining these laws, and to me that's really the key of what you've be talking about. And I'd like to expand a little on that.

Firstly, in a more specific sense, Mr. Mercier, when he introduced on May 29th, the Proper Bill, talked about problems created by immediate re rather than deferred sharing, and he said, "Tl still are, and the Family Law Review Committee has pointed out tax implications, which have al been pointed out and acknowledged by the Alberta Government, which have referred it in the passi of their legislation." So that's tax implications; there are creditors' rights, which must be considere the security that is to be required by banks, credit unions, etc., which concern was expressed qui succinctly in the Family Law Review Committee Report; and there is also the question wheth government should interfere in the lives of married persons living together, whether or not they a responsible enough to make their own decisions for themselves at that time. So he raises the as problems with immediate sharing, and in the perspective that you present your paper to us, whe you speak of the fact that just over 90 percent of taxpayers have a taxable income of less tha $20,000, which already excludes the vast number of non-taxpayers, who earn less than a taxab income, I wonder if you would like to comment about the implications of taxation. If I can help y first and tell you that Mr. Mercier has now said that the only current problem they see is the questi of the ownership of the principal family home, where the wife owns one principal family home ar the husband owns another principal family home.

Do you have any comment to make about the impact of the tax problem on immedia sharing?

**MRS. GOODWIN:** Well, as I've mentioned before, I'm not an expert. I ask questions about th — it concerns me that we have any tax policy that discourages sharing between spouses. I understar that as far as the residential marital home and a second, say vacation home residence, there's n really a problem because you can put it in both. Each spouse can take one of the residence their principal place of residence, and that can overcome the problem.

**MR. CHERNIACK:** I suppose one problem may be that they may have different values and o spouse may say, well, I want the better one.

**MRS. GOODWIN:** Well, you're assuming that in all these instances, marriages are breaking u You know, I think I made quite clear in my presentation that most marriages are a relationship trust, and certainly these kinds of relationships or arrangements can be dealt with early on in tl marriage.

**MR. CHERNIACK:** I suppose it's helpful when you're saving tax moneys, it's helped in that respe I suppose.

**MRS. GOODWIN:** Well, I think there's an incentive, there's an incentive not to share too.

**MR. CHERNIACK:** Right. Now, again speaking about the perspective that you refer to, there w a question asked of Mr. Spivak — I don't remember the question. I didn't quite understand tl answer because I'm not that knowledgeable on trust laws, but his response to a certain proble , I think it was as to why the nature of the asset has to be considered — he'll correct me no dou about it — but he did respond that there is some kind of trust that would create a problem if t court did not have the discretion to deal with it.

**MRS. GOODWIN:** I've tried to give a little bit of thought to it and, here again it's my o interpretation and I don't have any qualifications to really deal with it but I have observed and listene I have a feeling that maybe what you're talking about, Mr. Spivak, is the family trust, and I kn that these certainly do exist. They are arrangements where families have set up their affairs in su

way that income is distributed amongst children and certainly in most instances, or some, wives. ut it's to distribute the income over a period of time without, I think, having the incurrence of ery large sums of income tax.

Now, my feeling is that our first and foremost concern should be the marital relationship, the artnership, and I would suggest that if it is a healthy partnership, a husband and wife will agree ) this kind of an arrangement for their family but . . .

**IR. CHAIRMAN:** Mr. Spivak on a point of order.

**IR. SPIVAK:** On a point of order, because I think that Mr. Cherniack mentioned that that was ith respect to the nature of the asset and that was not. I don't in any way want to suggest that ou should not continue. I was asked an example of number (j) on 13(2) and I cited that as one xample.

**RS. GOODWIN:** Oh, yes, I realize that. It was just used as one example, and I can see it could e a concern, but I think my point is that in a trust situation, if the marriage is stable, then I would ather that the husband and wife would be in agreement in dealing with their assets in this manner. therwise, if there was a concern, I think that we all should share that concern.

**IR. SPIVAK:** I said that in the blending of trusts, which do not necessarily mean that the trust f the family between husband and wife are involved, there can ue several trusts of other families volved as well.

**IRS. GOODWIN:** Yes, I realize that. They can become very complicated and, there again, I will ostain from advancing any thoughts as we get into the complex areas.

**R. CHERNIACK:** The only point that I'm concerned with, Mrs. Goodwin, is that we are talking ere, at least I am talking about perspective and legislators' perspective. I have the feeling that ou would support my contention that it is more important that we establish the principle of 50-50 haring and ensure it, rather than leave all the loopholes which will be discussed in order to show articular concern for planning that involves tax savings, income tax savings, trusts of various natures. hat's why I referred to your statistics as to the number of people whose income, I assume, is low hough so that we need not be that much concerned about the ones who have those complicated . .

**RS. GOODWIN:** Yes, you will notice on the bottom of the page, I have made reference to the eakdown and it's more complete, the statistics, at the bottom of Page 10.

**R. CHERNIACK:** Yes, that's what I was referring to. Now still speaking about perspective and peaking about, I think on Page 9 you've put it very succinctly — I'll borrow that word from the ttorney-General: "It's up to the courts, through you, our elected representatives, to see that the ws reflect society's values," and in this case, you say they simply do not. I'm wondering whether ou're suggesting that they reflect the artificial values, establishment values, lawyers' values, judges' alues, and I would like to see if you would care to enlarge on this statement, bearing in mind e fact that as one reads the newspaper one sees that it is not uncommon to learn of adulterous lationships, of people who break the tax laws and get away with payment of a fine or something. n suggesting that the morality in society is not that great that we need get so deeply entrenched nd bound by what may be considered a course of conduct. Since you make the statement that e laws do not reflect society's values, I wonder if you could elaborate on that.

**RS. GOODWIN:** Well, number one, I've always felt that the courts should be something that we ok up to and we should not feel that we've been had by the court system. I wouldn't suggest at the courts or the laws have been created primarily to protect the interests of the businessman, the lawyer, or whomever. I think what we're dealing with here is that society has changed but e laws haven't. There has been a lot of change. The family has changed, marriage has changed, ir responsibilities in the family have changed, so therefore, of course, taking those factors and any others into account, our laws have to change. What we're doing is telling the judges to interpret e past which is not relevant.

**R. CHERNIACK:** Well, Mrs. Goodwin, you quote from a Canadian Bar Review article of March, 78, the bottom of Page 13, and you quote them as saying, the writer, "Judges operate mainly discretion which refers them ultimately to their own standards." At the bottom of Page 14, you y, that you believe "it unfortunate that our legislators leave such a large part of the onus on the

judge in determining these matters. Without legislative direction, they have no option but to lea to their own standards."

Bear in mind that the Attorney-General says, "Ah, but no, we are putting in a presumption 50-50 sharing which did not exist before and does not exist elsewhere." Since you've read th article and I haven't, would you indicate whether in your opinion, this big change in the law th the Attorney-General says has been accomplished, will affect the conclusions of the writer of th article?

**MRS. GOODWIN:** Well, I don't have to really relate to the article because, fortunately, I've ha the exposure to members from the judiciary and I've approached them on this. If there is n established law, then they have no other recourse than to lean to their own standards. I asked the how they do this and in most instances it's talking over coffee about different cases and what th do in their own situations. They are human, you see, we are not helping them and it's not the fault that this is the only thing we're providing them with.

**MR. CHERNIACK:** You will be told that when there is a statement of the principle of equal sharin that on that basis the judges already have a new set of rules and that they will be expected n to vary them except in cases where there is clear inequity spelled out within all of the ten subsectio and anything else that they think is likely. Are you suggesting that the courts will not feel constrained by the 50-50 sharing, as by their own standards and accumulated exchanges acro the. . .

**MRS. GOODWIN:** Well, let's not bear all the onus on the courts, because I think what they a presented with, will depend largely on how they deal with it. You being a lawyer, you are fully awa of the fact that every loophole will be dealt with, and if I come to you as a client, you're goi to look into every possible loophole that you can use. My suggestion is that the responsibility there to present all factors that can be dealt with to support your client, and it's bound to influen the judge.

**MR. CHERNIACK:** So your conclusion is, remove discretion, remove misconduct as a factor.

**MRS. GOODWIN:** Limited discretion, I suggest.

**MR. CHERNIACK:** You'll be told that this legislation provides for limited discretion.

**MRS. GOODWIN:** Well, if the feeling is that it provides for limited discretion, then why not u the same clause as 13(1)? What is the sense to putting in two clauses which are worded different but mean the same thing?

**MR. CHERNIACK:** Well, I'm guessing they don't mean the same thing, and I think one is mo limited than the other, but we'll hear other questions in that regard. Thank you, Mr. Chairma

**MR. CHAIRMAN:** Mr. Pawley.

**MR. PAWLEY:** Mrs. Goodwin, I would like to ask two brief questions of you. One deals with t quote, Page 6, from the Canadian Bar Review, and I was wondering if you could tell me wh jurisdictions the Canadian Bar Review would be referring to, as those that have eliminated the fa concept?

**MRS. GOODWIN:** But actually if you can believe it, they weren't listed.

**MR. PAWLEY:** They weren't listed? Okay.

Then on Page 12, if I could refer you again to the reference which you've made to 13(2), a I note interestingly that the item that has been added in our Manitoba legislation is a factor th is not included from my reading of the Ontario legislation, (h), factor the nature of the assets would just to like to have your opinion, Mrs. Goodwin, as to what you see in the use of the word "the nature of the assets". What do you view this as intending to cover?

**MRS. GOODWIN:** Well, Mr. Pawley, I haven't tried to go deep into my thoughts on this, becau I know the process well enough to know it will mean anything but the kitchen sink, or probal including the kitchen sink. So I really haven't dealt with specifics as far as the (a) to (j). I have go over it, yes, and I feel that it's inconsistent with the principle.

**IR. PAWLEY:** I'm trying to figure out what relevance "the nature of the assets" could possibly ave, and I am wondering if you could help me or assist me.

**IRS. GOODWIN:** I haven't tried to find the reasoning, because I don't find it consistent.

**IR. PAWLEY:** Thank you.

**IR. SPIVAK:** Well, do you accept the fact that there should be, in some way, by the very judges ho have no established law now, and no other recourse. . .

**IRS. GOODWIN:** I'm sorry, I can't hear you, I'm very sorry.

**IR. SPIVAK:** You've already stated that insofar as you're concerned there has to be some limited iscretion, there cannot be 50-50 sharing, there has to be some limited discretion, and it will be xercised by the very same judges who, if I can quote you, "if there is no established law, they ave no other recourse other than to their own standards." And those were your words when you ay that that's how they deal with matters now, and those are the judges who are going to have apply the limited discretion. And is it not a fact that in the limited discretion, whatever words e would put in here, there will be an attempt by every lawyer to try every loophole that can possibly e argued before the judges in a limited discretion, and the judges then are going to have to apply e very own standards that they have in interpreting the discretion that has to be exercised by em. So that unless you in fact deal with this in a rather specific way, rather than the general ay that is suggested, you are going to in effect have them exercising the limited discretion that ou suggest should be used, by an application of the very own standards which at the present time as not applied to the law inequity which you are entitled to and which we are in this Act trying . . .

**RS. GOODWIN:** Well, Mr. Spivak, if there were a way to legislate against bias, we'd do it, but e have to have some input in this area, and limited is the most that I could go for.

**R. SPIVAK:** Well, but you see, when you say if there would be discretion in the words, would e "grossly unfair cr unconscionable."

**RS. GOODWIN:** Well, yes, of course, I'm opposed to conduct, as you realize.

**R. SPIVAK:** Well, it says grossly unfair and unconscionable. Well, maybe there would be another rminology you'd be more satisfied with. But if you say that and there was a suggestion I think at that would better than we had before in 13(2), then I am suggesting to you that you have the oblem which you've got to face up to, that the very same people who you are critical of now e going to apply in the interpretation of that discretion the very same standards that they have plied right today. And what we have tried to do is to make it much more explicit and to try and al with the realities of what will happen in many situations that they will have to deal with.

Now, if there is a declaration that spouses each have the right to have their assets divided equally tween them in any of the following events, which then cites the marriage breakdown, that surely this point is a restatement, or at least a statement of intent and a new law that does not exist, ich will in fact meet one criteria of what you said, that the judges talk about, that if there is established law, there's no other recourse to them other than their own standards. And would not be better in dealing with this, to deal with the realities of the kinds of discretion they're going have to deal with and at the same time try to be realistic, so that in effect we do not have a se law developing as a result of interpretation of discretion, simply because the judge is trying be equitable in a situation, where by the nature of the asset, by the other items that were mentioned 13(2), they, by the very nature, are going to have to deal with the problem when it's brought ward to them. Because the lawyers will in fact bring every loophole, and they are going to have at least hit it on the head the first time it comes through, either they establish the manner in ich they will interpret the discretion one way or the other, and if it's not correct, and we as islators do not think it is correct, we can change it. But the point is you are going to have to through that process whether we like it or not, so long as there is a discretion to be exercised. d so far, and I just say this to you, anyone who has come here has not suggested that there ouldn't be a discretion. I don't know anyone that's come before this Committee who has suggested it there should not be a discretion, so that we recognize that there is going to have to be discretion, d what we recognize as well is that someone is going to have to interpret that discretion. you ow of course we're looking at the

**MRS. GOODWIN:** However' matter from different viewpoints. I feel I'm looking at it realisticall I'm applying a principle that I believe and I feel that it's the presumption that has to be consistei throughout the legislation, and it's just the way you perceive it, as opposed to the way I percei\ it, I feel that it's not equitable.

**MR. CHAIRMAN:** Mr. Corrin.

**MR. CORRIN:** I have another question, but in view of Mr. Spivak's remarks, Mrs. Goodwin, I wa wondering whether, considering Mr. Spivak's concern that the need to give guidance to the cour when they're exercising their jurisdiction and discretion to vary the equal division of assets, he made what some might well consider a compelling argument to provide guidelines, parameters, fc the court to exercise this discretion or a latitude with respect to the commercial assets. I a wondering whether or not you think it would be consistent if he were to take the same positic with respect to the equal division of family assets, in view of the fact that this has previously nc been allowed, this sort of discretion has not been allowed by the courts. Would you see any mer in an extension of the circumstances, the list of circumstances, with respect to family assets a well, or do you think that that would only serve to further water down, as I think you have suggestec is the case of commercial assets, further water down the nature of the division in tha respect?

**MRS. GOODWIN:** . . . water down the institution of marriage, I just think it's unbelievable becaus it's against the principles that I believe in, and I don't see how you can subscribe to a numbe of variances if you believe in the principle. No, I wouldn't suggest that you add the (a) to (j) t the family assets.

**MR. CORRIN:** I certainly agree, I couldn't agree with you more, but I did think that in view of th fact that Mr. Spivak had evinced a special concern for the judges that have the difficult task exercising discretion in respect to commercial assets, that he might as well consider giving guidanc and legislative assistance to the same judges when they dealt with variance of division of fami assets.

But my initial question and the one I think is most important to deal with is something that thought that you brought before the Committee as by way of a nuance to a very thorny problen and that was the problems emanating from adequate enforcement measures. You indicated, I thir that you made representations to the effect that fault had created enforcement problems, that th difficulties entailed in establishing fault had more or less kicked back special problems, and interpreted your remarks to mean that people who found themselves on the short end of the fau stick, maintained their grudges, maintained their hostilities, after the court processes had ceasec and in many circumstances I suppose, try to work out their own sense of equity by refraining fro making maintenance payments. I was wondering about that, especially in consideration of the remark that have been made by the Attorney-General to the effect that subsection (2) of The Fami Maintenance Act dealt only with the question, this is the question of conduct, but only related a a concept to the quantum of maintenance, and not to the order itself. I am wondering, given th Attorney-General's remarks, and his position on this particular section, whether or not you woul feel that you would be satisfied that that would serve to lessen these sorts of enforcemer problems.

I would also ask you whether or not you had any specific statistics that you could bring to bea before the Committee to demonstrate whether or not there was a higher incidence of enforcemer problems with respect to fault-contested separation proceedings, as opposed to non-fau proceedings or consent proceedings under the present law.

**MRS. GOODWIN:** I have no information as far as those statistics are concerned. However, gettin to your discussion on the conduct, I do feel that it's a possibility, a very good possibility, that contributes to the default of maintenance payments. You know, if you're stabbed in the back, wh be nice?

**MR. CORRIN:** So you don't think that the Attorney-General's opinion, and that's a learned opinic of course, to the effect that the fault with respect to conduct, and under 2(2) will only be pertinei to the question of quantum of maintenance.

**MRS. GOODWIN:** It doesn't matter what it's pertinent to. The fact that it's raised is sufficient cause the dissension between the two partners.

**MR. CORRIN:** Thank you.

**MR. MERCIER:** Well, Mrs. Goodwin, I just wanted to thank you for what is obviously a well prepared nd thoughtful brief. I believe you were here last night when we had some lengthy discussions on he principles that you have raised and because of the number of people who wish to present briefs, don't think that I can go into the same discussion or dialogue with each individual delegate before he committee but I do thank you for obviously a well prepared brief. $

**MRS. GOODWIN:** Thank you very much.

**MR. CHAIRMAN:** Thank you, Mrs. Goodwin.

Before I call the next party, I might inform all persons present and all persons interested in the earings of the this committee that this committee will sit tomorrow afternoon from 2:30 to 5:30 nd again tomorrow evening at 8:00 p.m. We have gone through 24 briefs to date and we have, s far as I've been able to learn, 32 more to go. So you can see that we are going to have to pend a lot of time at this.

We've been asked by the National Farmers Union's women's representative, Darlene Henderson, she could make a presentation this evening because of their involvement in the agricultural ommittee which will be opening up tomorrow evening. Would Darlene Henderson like to come orward and make her presentation at this time. I might ask her if the other person, Jacie Skelton, it a joint presentation the two of you wish to do?

**MS. HENDERSON:** Yes, Mr. Chairman. Jacie Skelton would like to present her presentation first nd then I will follow her if that is all right with the committee.

**MR. CHAIRMAN:** All right. To Jacie Skelton, you are aware of our time limit that we try to adhere o?

**MS. JACIE SKELTON:** Yes, mine isn't that long. I guess I'd better explain. Because of lack of time or studying different issues, Darlene Henderson and myself decided to split the Acts up. I will be peaking on Bill 39 and Darlene Henderson will be speaking on Bill 38. So I will be dealing mainly ith fault and she will be dealing with sharing of assets and whatever.

**MR. CHAIRMAN:** Would you proceed, please.

**MS. SKELTON:** The traditional terms of reference for marriage most often include: a man's bligation for his wife and children; the wife's obligation to care for the home and the children; love, honour and obey, and the husband's position as the head of the household. Although there e exceptions, it is presumed to be the man's legal duty to support his wife so by law he receives referential priority treatment. Men are given preferential treatment as producers in respect to jobs, ay, promotions, taxes and land ownership on the supposition that they alone support their wives nd children.

We consider married women in the home to be workers, actively employed in the home, using anagement and organizational skills which, if developed with the view to pursuing a career, would ave substantial marketability in the employment sector.

Women, by giving up opportunities to their own private income to work in the home, advantage eir husbands by providing them with greater possibilities to pursue gainful employment and greater conomic opportunity and future development skills. Women in our view contribute equally to the conomic stability of the family unit or marriage unit.

The productivity of women must be accepted as an integral part of the economic activity of the mily unit. The responsibility of women in the family unit has been to manage the home and raise e children. We see no reason why men need be excluded from this role. In order to accommodate nd encourage more freedom in changing roles, thus giving women more equal opportunities, our ociety must design adequate measures to develop social services that would support the dual role women rather than intensify the conflict between traditional cultural norms that define family roles the economic and social realities of women.

It is wrong to continue with legislation which glorifies an inferior status for women. The inequality inforced by family maintenance and marital property laws has been a major factor, we feel, in eakening the marriage unit, resulting in an increased rate of marriage breakdowns.

The National Farmers Union views marriage as a relationship of interdependent equal persons. marriage is truly the institute that supports the family unit, then women must be accepted as ual interdependent partners. Marriage must be a contractual relationship, in which the obligation, portunities and rewards for both partners are equalized. Partnership must take into account a ir distribution of work, the talents, preferences and aspirations of the individuals.

Therefore, we feel it is vital that we voice our opinion regarding Bill 39, which proposes th conduct rather than need be used as a measuring stick to determine the amount of maintenanc provided for a dependent spouse, or dependent spouse and children, after a marriag breakdown.

Maintenance denied or granted on a fault or no-fault basis is a particularly odious propos In the divorce proceedings of a normal marriage breakdown who is to decide blame, either absolu blame or degree of blame? People have been insisting for years that our divorce laws must b revised to permit no-fault settlement. The National Farmers Union contends that it is unrealistic assume a judge can decide when faults begin to appear within a relationship. Traditionally, decisio based on the establishment of fault have meant that one party in a marriage has to be entire at fault and the other entirely blameless; in other words, a black and white situation which fictitious.

There are many divorce cases where the marriage has lasted 20 or 30 years. A woman wh has spent her time and energy working for the family in the home will not have developed mar skills appropriate for the job market. This, coupled with employers' biases towards young employee make it difficult if not impossible for such women to gain financial independence. Women in th category cannot get back into the labour force. Whether or not she receives support should n depend on her lawyer's ability to prove she was consistently blameless throughout th marriage.

We exhort the government to weigh the drawback of fostering the concept of fault in a marriag breakdown. The onus will necessarily be placed more on one spouse than the other. Consider wh the effects of placing fault will be on the children of the marriage. Children can become unnecessari emotionally damaged as a result of cruel and harsh legal battles fought between lawyers and clien in a court room. Furthermore, intensifying the role of blame ensures the couple will never be frien again and fosters vengeance. Therefore, we recommend that this bill be amended so that need b the only factor used as a determinant of the amount of maintenance provided.

**MR. CHAIRMAN:** Will you permit questions?

**MS. SKELTON:** Yes, I will.

**MR. CHAIRMAN:** Mr. Cherniack.

**MR. CHERNIACK:** Thank you, Mr. Chairman. I was just thinking about the fact Ms. Skelton th the government seems determined that fault will be a factor in The Maintenance Act by providi that . . .

**A MEMBER:** Is that a question to her?

**MR. CHERNIACK:** . . . by providing that . . . Was that the Chairman speaking? Were you speakin Mr. Chairman?

**MR. CHAIRMAN:** I didn't say a thing, Sir.

**MR. CHERNIACK:** All right, I thought you were speaking to me. . . . by saying that — I'm ju looking for this Section and I can't find it. It should be deeply etched in my memory but it's t section that deals with what the Attorney-General has referred to as bizarre circumstances.

We were talking with Nrs. Goodwin about society standards or attitudes. The suggestion by t Attorney-General is that if there are exceptional actions on the part of, let us say the depende spouse, of such a nature that the conduct is so unconscionable as to constitute an obvious a gross repudiation of the marriage relationship, if we bear in mind that the law which the governme reinstituted last year by suspending the legislation we passed last year, and that law under T Wives' and Children's Maintenance Act says that a woman who is in receipt of maintenance supp loses that right upon committing an act of adultery. Bearing in mind that that is a law that t government reinstituted and is today the law if there was a case in court today, would you consid that it's not unreasonable to think that to some courts the conduct of a spouse receiving maintenan in committing an act of adultery would be a repudiation of the marriage relationship. Consideri that the marriage relationship has already been broken by a separation, would you not say th under this concept the mere act of adultery is a repudiation of the marriage relationship?

**MS. SKELTON:** Yes, definitely. Under a fault system, adultery — you can name them all — a of these things are a repudiation of the marriage breakup. This is why we cannot have fa determining, any conduct determining what maintenance you get because it doesn't matter wha

happened in the marriage, the marriage has broken down and at that point the dependent spouse has to be supported and the dependent spouse and children or whatever, and the support has to be given regardless. When you penalize somebody because of conduct, you're not helping the people, you're deterring them further.

**MR. CHERNIACK:** But you see, we're told that this has to be obvious and gross repudiation but obviously it would be that it becomes known that an act of adultery was committed and gross might mean two acts of adultery or something that makes it more . . .

**MS. SKELTON:** Out on the street or something.

**MR. CHERNIACK:** Pardon?

**MS. SKELTON:** Out on the street or something.

**MR. CHERNIACK:** Out on the street or something. Well now, I'm wondering, not so much of what judges would say, but what would society, as you know it, consider an act of adultery to be in relation to a repudiation of a marriage. Is it fair to say that that could be considered conduct that's so unconscionable as to constitute an obvious and gross repudiation of the marriage?

**MS. SKELTON:** Oh, definitely, because you look at court cases and you look at people talking about marriages and, oh, look at that poor man' his wife ran away with somebody. It's thought of that way already. Or, look at that poor woman, her husband has been screwing around on her, and it doesn't matter, that's considered as that already.

**MR. CHERNIACK:** In the case of that woman whose husband is supporting her, has committed an act of adultery and it is obvious that he has done so, would you say that society would expect him to pay additional, over and beyond the need that is determined?

**MS. SKELTON:** No. No, there's no need to pay beyond because he's done something. If he's done something it was because there was something wrong with the marriage relationship to begin with and get it over with but just provide the maintenance needed for the dependent spouse and children.

**MR. CHERNIACK:** Thank you.

**MR. CHAIRMAN:** Mr. Corrin.

**MR. CORRIN:** Yes, thank you, Mr. Chairman. I'm particularly interested in the latter part of your brief, Ms. Skelton. You indicated that your group is particularly concerned about the possibility of emotional damage to children as a result of the harsh legal battles that often ensue in the courtroom setting.

I can tell you that I've practiced law for a few years and in this province and on many occasions I've been rather non-plussed and chagrined to find that I had come out, for instance, on the winning side of a separation case, or my client had come out on the "winning side" of a separation case, and had obtained an order under the fault concept, more or less against the other party, but that the other party very often, for instance, a party who had committed an act of adultery or had been charged with mental cruelty had "succeeded" with respect to a custody application, and I found that you get into rather anomalous and inequitable situations because very often that party who is able to sustain the custody application and is deemed by the court to be qualified as an able parent, notwithstanding the finding that they perhaps had been responsible for an act of adultery, is put in the position where they are very hard pressed to maintain the children of the marriage. I'm concerned, in view of the fact that you have evidenced the same concern as I have as to what you think about this particular situation, whether or not you share my concern about the continuation of this sort of situation in our courts.

**MS. SKELTON:** Yes, well, I take myself, for example. I'm a divorcee and I came out of a mental cruelty situation and it wasn't all my husband's fault, there's no doubt about that. But the thing is there is enough damage done to children just in the situation and through the marriage breakdown without, for instance, them having to go through maybe testifying in court or something like this because, after all, the whole family has split and why? Especially young children because it's harder to explain than maybe even older children and it's a damaging thing for the rest of their lives, no matter what you try to do. This has to be stopped because what you find is you find that in our

society, no matter how you look at it, it's people that hae come out of harsh conditions like th that end up having more problems, maybe further on in life. It doesn't show up right away but thes are all moral things we have to look at.

**MR. CHAIRMAN:** Any further questions? If not, thank you kindly.
Darlene Henderson.

**MS. SKELTON:** Oh, could I ask one more question?

**MR. CHAIRMAN:** You want to ask a question?

**MS. SKELTON:** I have a brief here that has been written up by a local of the National Farmer Union who cannot be here to present it.

**MR. CHAIRMAN:** You may leave it and it will be distributed.

**MS. SKELTON:** Thank you.

**MR. CHAIRMAN:** Yes, to members of the committee, we will ask the Clerk that that brief be printe in Hansard.

**MRS. DARLENE HENDERSON:** My brief is here if someone would like to hand it out. My nam is Darlene Henderson. I am a Women's Advisory Committee member for Region 5 of the Nation Farmers Union.

Members of an enlightened society will only accept marriage as a partnership of equals rath than a futile exchange of services where one partner owns the other as a chattel. Therefore, th sanction in law of the use of power gained by the economically stronger spouse based on the contr of property, over the behaviour of the economically weaker spouse, must be terminated. It is f that very reason that the National Farmers Union asks that this committee recommend that B 38, The Marital Property Act, be amended concerning its treatment of the sharing of family an commercial assets.

Bill 38 proposes that sharing of both family assets and commercial assets be deferred until th time of marriage breakdown. Therefore, Bill 38 means that spouses are not equal economic partne during their marriage. Webster's definition of the state of equality proposes that there is a likenes in magnitude or dimensions, value, qualities, degree and the like. The definition goes further to ca equality the state of being neither superior nor inferior.

Mr. Mercier stated in his discussion of Bill 38 in the Legislative Assembly on Monday, May 2 1978, that the purpose for suspending the previous family law legislation was to simplify th legislation, to make it workable and understandable, to make it equitable while at the same tim preserving the basic presumption that assets acquired during marriage should be shared equal between spouses. Yet a government supposedly dedicated to the principle of equal sharing deni that very equality by saying that the assets acquired during a marriage of equal partners, are n to be equally shared in law until that marriage dissolves. Is that not placing one of the spous in a position of inferiority and the other in a position of superiority?

Bill 38 goes even further to destroy the concept of equal sharing by providing the 10 discretiona factors of Subsection 13(2) so that the court may vary the equal sharing of commercial asse acquired during the marriage and if and when that marriage breaks up. These 10 factors must al be seen as a perfect delight to most Manitoba lawyers. These 10 discretionary factors guarant that the economically stronger spouse will continue in a dominant role over the economically weak spouse, and thus any step towards equality of spouses in Manitoba marriage has bee eliminated.

One of the strengths of the rural community of Manitoba is the abundance of family farms. dominant characteristic of such family farms is that the partners of the family work together to acqui the assets necessary for the continuation of that farm, which means that both spouses contribu to the best of their abilities to the functioning of that farm unit. In mathematical terms, equali can be seen as a comparison of two quantities which are in effect equal although differently expresse or represented. Thus, the husband and the wife each work at tasks at which they are most efficie to provide the qualities and the quantities which formulate the whole, the family farm business, ar yet this legislation proposes that these two spouses may, or will, not likely be considered economica equal.

According to the 1976 census, a total of 1,203,174 off farm employment days were used supplement the farm income of 8,151 farms in Manitoba. As many as 2,118 Manitoba farms require between 229 and 365 days of off farm employment to bolster farm income. Three thousand ar

wo farm operators who have farms of capital value exceeding $100,000 were required to work off ırm 23.9 weeks of the year to supplement farm income. Needless to say, in most instances the erson left in charge of the farm was the farm wife. In addition, we know that there are many farm omen who work at off farm employment to subsidize the farm operation, therefore, it is imperative ıat the contribution of the farm wife be recognized as economically equal to that of her artner.

It is the contention of the National Farmers Union that Bill 38 may destroy families and marriage y its perpetuation of selfish and archaic disregard for the rights of human beings. As quoted earlier, lr. Mercier says there is a presumption of equal sharing of assets during marriage in the proposed gislation. However, we are compelled to say that it would be indeed presumptuous of anyone to elieve that they may take it for granted that equal sharing is a principle enshrined within this roposed legislation. This proposed legislation will, by its series of discretionary factors and its aspect f deferred ownership, continue to perpetuate the type of attitude where the contribution of one erson in a partnership is seen as less worthy than the contribution of the other.

To re-emphasize, it is the intent of the National Farmers Union to impress upon this committee ıat marriage should be seen as a partnership of equals and recognized as such in the legislation Manitoba. Once that marriage partnership is established, then all assets acquired from the efforts f that partnership should be shared equally, enjoyed equally, and if that partnership should dissolve, ıen the assets of that partnership should be automatically divided equally. If it were the intent of ıe spouses involved within a marriage to make arrangements for other than equal sharing of assets cquired during that partnership, they would do so through the legal process of a marriage ontract.

If the law of this province states clearly that equal sharing of all assets acquired during a marriage a condition of marriage, people will be aware of their rights and obligations under the law and ıey will make the necessary plans to vary the situation to meet their own individual needs, if ecessary. Therefore, the Nationals Farmers Union recommends that The Marital Property Act, Bill 3, be amended to incorporate the principles delineated previously, namely:

One, that any and all assets acquired during a marriage be shared equally by both partners that marriage at all times during that marriage and also, if necessary, at the dissolution of that ıarriage;

Two, that the discretionary factors listed in Subsection 13(2) of Bill 38 be stricken from the ct;

Three, that partners within a marriage be recognized as equal economic entities in the law in anitoba.

**R. CHAIRMAN:** Would you permit questions?

**RS. HENDERSON:** Yes.

**R. CHAIRMAN:** Mr. Pawley.

**R. PAWLEY:** Mrs. Henderson, first I would like to congratulate you and Jacie Skelton, who, along ith the Women's Institute yesterday, have certainly brought to this committee the concerns of so any rural people pertaining to this legislation, particularly farmers' wives and how this legislation ight affect them.

I would, if I could, ask you to comment on the definition in Bill 38 of marital home. As you are obably aware, the homestead definition in The Dower Act is 320 acres. Under Bill 38 marital home oes not mean 320 acres but only includes a portion of the property, the house plus that portion the property that may reasonably be regarded as necessary to the use and enjoyment of the sidence — that is, if it is part of a larger farm operation — so that that portion will be sliced ıt of the farm acreage. I would ask you, Mrs. Henderson, if the farm house and the acre or two ırrounding the farm house, if generally in rural areas the value of that compares with a house lot in town or in a city?

**RS. HENDERSON:** Yes, I suppose I would start by telling you a little bit about our own farm tuation. We have a section and one-quarter of land. The farm house and the amount of property is bill proposes as being the family asset surrounding it, is located right in the very middle of at one section of land. There is no access to that block of land except through that property. o if there was such a situation as a marriage breakup in our family and this piece of property ıich is deemed a family asset was divided, you would be dividing a piece of two or three acres the middle of a section of land and it would have no value whatsoever to anyone else except e owner of the property.

There is another problem as well. In most municipalities now there is a law stating that division

of land cannot be made in smaller parcels than 80 acres, so if you were to sell this two or three acres, which doesn't have any value anyway out there in the middle of the section, if you were to attempt to sell it to gain some money, you know, to share with anyone, I don't know how you would do it because the law says that you cannot divide in any smaller pieces than 80 acres.

**MR. PAWLEY:** Well, Mrs. Henderson, I think Mr. Mercier or his advisors might suggest that the court would establish a value, even if the farm holding, the farmstead, couldn't be sold due to The Planning Act, that the court would at least be able to establish some value. Would there be a difference, in your view, in respect to the value of a farmstead, such as the one that you described that you live in, and one which could be split off and sold to a third party?

**MRS. HENDERSON:** Yes, I would think that there would be a considerable iifference in value especially to the farm home situated on our land and a similar-type home, say in Winnipeg or Brandon or even in Reston, which is one of the larger centres close to us.

**MR. PAWLEY:** So I would not be unfair, then, in suggesting that in a situation such as your own that the farmstead, which can't be sold or can't be transferred because of location or because of the Planning Act, that there would be no willing buyers, even if the law should permit, that the farmstead would be of very little value in relationship to the total value of the farm unit.$

**MRS. HENDERSON:** Yes, that's right.

**MR. PAWLEY:** So that you would then, I would assume, recommend that we very quickly and without delay return to the definition of marital home, the definition that has been traditionally used, and that is 320 acres.

**MRS. HENDERSON:** Oh yes, I think, as far as farm people are concerned, that's the only reasonable and sensible thing to do.

**MR. PAWLEY:** Can you think of any justification for the definition of marital home to be so restricted as it is in Bill 38, then?

**MRS. HENDERSON:** No, I can't except I might think that most of the people responsible for changing that definition have never lived on a farm, have never seen a farm, and have never had anything to do with one, perhaps.

**MR. PAWLEY:** Well, in fairness to them, Mrs. Henderson, I have to point out that they feel that they generally in their caucus are very representative of the rural community.

I would also like to raise another area with you and that is dealing with 13(2) and the ten factors Now, I have noticed, Mrs. Henderson, that the factors listed, that one factor is included that is not . . . I believe there are two or three factors, but one principal factor is included that cannot be found in the Ontario legislation — I don't know about Alberta, but Mr. Mercier could comment later — and that is (h), the nature of the assets. I would like to ask you if, on a farm where the farmer is putting much of the savings into farm machinery or into cattle or or farm produce, if you feel that it would be possible that a court might examine the nature of the asset, the farm machinery the combine, the tractor, the plough, or the hogs, or the cattle, and state that because of the nature of that operation, because of the nature of those assets, that they would be considered to be non-dividable on an equal basis?

**MRS. HENDERSON:** The way that this bill is proposed at the moment, I could see that happening because in our situation our land is owned in joint title, but of course the assets of which you are speaking — the combine, the tractor, and what-not — are in my husband's name. So therefore even if the court should decide that the commercial asset — the farm — should be divided the could, by the nature of this number (h), deem that all the equipment that goes with the farm should not be divided because it would be necessary to the continuation of the farming operation.

**MR. PAWLEY:** And certainly the acreage and the farm itself, which may have very well been handed down from grandfather to son and then again to the next generation, a court could very well examine that land and say by the very nature of the asset which has been carried down generation from generation and dealt with within the one family, by its very nature it belongs to the male heritage in the family. Would that be an unreasonable view' in view of the wording that the Legislature is providing for the court here, that the court might arrive at?

**MRS. HENDERSON:** I suppose. I believe inheritance is taken care of in another part of the bill, nd that is not included in the amount of assets acquired during the marriage. So we're talking ere about things like the farmland that is acquired during the marriage.

**MR. PAWLEY:** Though, Mrs. Henderson, I'd like to point out (g) to you, which states in respect o inheritance "whether either spouse has assets to which the Act does not apply by reason of here having been acquired, by way of gift or inheritance" in the value of those assets. So it appears hat an inheritance can be taken into consideration and can be deducted from the equal haring.

In conclusion, then, insofar as farm is concerned and the rural situation and the farm wife, you vould wish — and if I'm being unfair to you, please say so — you would prefer to see the elimination f the ten factors and I assume you would prefer to see the limited, very limited, discretion, as s provided here for the family assets; namely that little house and acre away out in the corner f the quarter-section somewhere.

**MRS. HENDERSON:** In the centre.

**MR. PAWLEY:** In the centre.

**MRS. HENDERSON:** Yes, I would definitely like to see the discretionary factors eliminated ltogether, and I would definitely only be in favour of very very limited discretionary powers.

**MR. PAWLEY:** Thank you.

**MR. CHAIRMAN:** Mr. Mercier.

**MR. MERCIER:** Mrs. Henderson, would you not agree that, even as was stated in the previous egislation, that a commercial asset is an asset primarily used or held, for in connection with a ommercial, etc., or other income or profit-producing purposes, that a commercial asset is something hat produces income? Would you agree with that definition?

**MRS. HENDERSON:** Yes.

**MR. MERCIER:** Would you therefore not agree that the land on a farm, with the exception of the and used for the home, is a commercial asset? It's an asset that produces income.

**MRS. HENDERSON:** Certainly, and that's why I am asking for the commercial asset to be included nd not be deferred until the time of marriage breakup.

**MR. MERCIER:** You were asking questions with respect to. . . or answering some questions from Mr. Pawley about the difference in the definition of a marital home under this legislation, and a omestead in The Dower Act, and I am just trying to explain or clarify for you that that is the rationale hat was used, that the balance of the farmland, other than the home, is a commercial asset. Just s in the city where somebody owns a 50 by 100 foot lot on which his home is and next door nay have a garage or restaurant or some other little business, that separate property is a commercial sset.

**MRS. HENDERSON:** Yes, I see your rationale but I don't agree with it, because I feel that all the ssets acquired during the marriage, family assets and commercial assets, should be divided evenly, hould be owned equally during that marriage and divided equally if that marriage dissolves.

**MR. MERCIER:** Well, Mr. Chairman, we went through this last night and I have come to expect hat there will not be unanimity over this legislation, but let me explain that it is the intention . . . think the government has the same objectives as many of the people that are making submissions n that in part the method by which we are attempting to achieve it is being misunderstood. As ve explained last night that there is a presumption of equal sharing under Section 13(2) and, as Mr. Cherniack explained on my behalf to another delegate earlier, that in fact there has already een a judicial decision in which a judge has said that it's only in cases of clear inequity that there vould be any variation. I take it you do not agree with that interpretation of the legislation.

**MRS. HENDERSON:** I don't really see — and it has been said very often in this committee room n the last couple of days — I don't really see why, if there is and if you sincerely believe that here should be that presumption, why it cannot be clearly stated in the legislation. Why do we

need a presumption? Why can we not say what is what? Call it by its name.

**MR. CHAIRMAN:** Mr. Cherniack, on a matter of privilege.

**MR. CHERNIACK:** Mr. Chairman, on a matter of privilege. I'm sure I did not quote Mr. Merci as saying that only in the case of a clear inequity would there be a variation. Because I have bee arguing that he ought to say that in the legislation and so far he has refused to say that in th legislation. So I did not quote him as supporting that concept.

**MR. MERCIER:** I should have prefaced my remark, Mr. Chairman, by saying that Mr. Cherniac does not often quote me with approbation.

Would your position be that an equal sharing is always an equitable sharing?

**MRS. HENDERSON:** You're talking about farm assets?

**MR. MERCIER:** No, all assets.

**MRS. HENDERSON:** Yes.

**MR. MERCIER:** In every case?

**MRS. HENDERSON:** Yes.

**MR. MERCIER:** Thank you.

**MR. CHAIRMAN:** Mr. Pawley.

**MR. PAWLEY:** I would like to just clarify, because I think that we do have a particular probler that has been raised by the discussions, that even if we proceeded with the assumption that th 318 acres is commercial and the two acres is to be treated as family, on the assumption that therefor we are being consistent with the non-farmer or the businessman in town, that we really have a inequity even between the businessman in town and the farmer. Is it not true, Mrs. Henderson, tha the businessman in town usually has his house on one street and business, say downtown on th main street, totally detached one from the other, and the sale value of the house, therefore, is nc influenced by the fact that it's tied in or connected or attached to the business operatio itself?

**MRS. HENDERSON:** Yes, that's true.

**MR. PAWLEY:** So there is quite a variation then, isn't there, with the treatment that's being provide here, on the farm situation as compared to the situation in town, as far as the businessman i concerned?

**MRS. HENDERSON:** Yes, the farm people are being discriminated against in this Act.

**MR. CHAIRMAN:** Any further questions? If not, thank you very kindly.

**MRS. HENDERSON:** Thank you.

**MR. CHAIRMAN:** Mrs. Donnie Parker. Mrs. Parker, you are, I hope, aware of our tim limitations.

**MRS. DONNIE PARKER:** Yes, mine is very short.

Gentlemen and Ladies, thank you for letting me speak to you today.

**MR. CHAIRMAN:** Can you get a little bit closer to the mike, please?

**MRS. DONNIE PARKER:** Gentlemen and Ladies, thank you for letting me speak to you today. have suffered through three nervous breakdowns and was hospitalized during each time. I just gc out of Selkirk Mental Hospital three years ago in July. My husband kept the children — two daughters aged 12 and 14. My last period of hospitalization lasted a year. My husband made arrangement when he was moving to dispose of our household goods and packed a very small box of ornament and a few dishes to give to me. Since then, I have never seen my household furniture. All I ha

to show for the years of marriage were a few odds and ends. My husband kept the two girls until he met a 19-year-old girl, whom he got pregnant, and seeing the girls were given unfair treatment from their dad and a girl nearly their own age in the same house, they moved in with me.

I just might add that this girl also had a baby girl out of wedlock to begin with, which her mother looks after at present.

Anyway the girls moved in with me after they made their choice of parents to stay with. This was about the end of March or the beginning of April this year.

While I was in hospital, my husband, my psychiatrist and social worker had a meeting which I attended. My husband stated that he did not want me back and that he would give me $50 a month, as that was all he could afford. I realize now that that was really not the case, as he sometimes did engraving, with the aid of the girls helping him, with the engraving machine of the company he worked for. Also, the fact that I never ran up a single bill for him to pay, except for Eaton's, where I had to buy us clothing for the children to attend school. From there, other than my staying in a single room on Wolseley, I stayed at a halfway house. While staying at a halfway house, I attended Red River College where I attended upgrading classes. Shortly after that, I found myself a job assisting with meals for the boarders. This job lasted till just a short time ago, then I had to apply for welfare, but was fortunate to find myself another job doing dishes and helping to clean up a cafeteria.

My husband stopped making payments of $50 per month last November, and I haven't received a penny from him since, except for $15 which he gave to my daughter to help buy something suitable for graduation. My daughters came to live with me at the end of March, and have only a one-bedroom apartment in a very old block to live in. A little while ago, I learned he had bought himself a colour TV set. He invited his daughter over to see it, and I felt quite hurt, but didn't say too much because I didn't want hard feelings between my kids and myself. As well as purchasing a new TV set, he bought furniture for his $245 a month apartment in someone else's name, so I can't claim any of it. Besides this, he owns a Monte Carlo, which he bought brand-new about five years ago, and recently he bought a new transmission for it. And also, I might add, he was always buying cars from the time we were first married no matter how much money we owed.

I managed to buy second-hand furniture and little odds and ends for the one-bedroom apartment in a poor district to make a home for my girls and myself, but find since they have come to live with me, it is hard to make ends meet. My husband ignored my requests that he at least pay the $50 a month, which was originally the amount intended, for support only. He lives right here in Winnipeg. I worked while married, taking my children out with me at the ages of three and four to give child care to another two small children. I also did caretaking in Plaza 100 apartment with my husband. I did most of the cleaning and he did very little, really. My weight dropped from 170 to 110 pounds in no time, and it was shortly after that I was hospitalized. I worked whenever I could to supplement the family income as my husband didn't give me spending money or a decent amount of money to buy groceries — $20 a week, etc. My husband's money also went; once he co-signed a loan of $1,000 for a girlfriend who married a man who did not fulfill his obligations, and as a result, my husband paid almost all of it. My signature was not required under the old laws. Will it be required under the new law?

Thank you.

**MR. CHAIRMAN:** Would you permit questions?

**MRS. PARKER:** Yes.

**MR. CHAIRMAN:** Anyone wishing to question Mrs. Parker? Mr. Cherniack.

**MR. CHERNIACK:** Thank you, Mr. Chairman. Mrs. Parker, you have described almost a classic example of problems that occur which the courts have not been able to deal with and I'm just trying to see what could be done in this kind of legislation to take care of problems such as you had. You say that your husband has always had a car during your marriage together?

**MRS. PARKER:** That is right.

**MR. CHERNIACK:** And you had furniture during your marriage together?

**MRS. PARKER:** Yes.

**MR. CHERNIACK:** You did not have a home that you owned?

**MRS. PARKER:** No. We once bought a home, but he didn't keep up the mortgage payments so we lost it.

**MR. CHERNIACK:** So you lost the home.

**MRS. PARKER:** Yes.

**MR. CHERNIACK:** The furniture that he bought, the car that he bought, did you each have titl to it? Did you own them jointly?

**MRS. PARKER:** The home that we lost, I did, but the car, I don't believe I did.

**MR. CHERNIACK:** And the furniture?

**MRS. PARKER:** The furniture, I did. Up until he sold some new furniture he had bought for th home, while I was in the hospital. He purchased new furniture.

**MR. CHERNIACK:** He bought new furniture in his name, not in both names.

**MRS. PARKER:** In somebody else's name.

**MR. CHERNIACK:** Somebody else's name altogether. But the furniture, when you lived togethe was it owned by both of you, or by you?

**MRS. PARKER:** Yes, by both of us.

**MR. CHERNIACK:** And what happened to it?

**MRS. PARKER:** He sold it.

**MR. CHERNIACK:** He sold it. And did you have any opportunity to claim repayment for your shar of the . . . ?

**MRS. PARKER:** Not really, no.

**MR. CHERNIACK:** What efforts did you make?

**MRS. PARKER:** Well, I was in the hospital, to begin with, for a few more months after he ha said he did not want me back, and he was paying me $50 a month and I was on my own ther and I only had myself to worry about but when it came time for me to take the children, becaus they couldn't be with him any longer, I went to a lawyer and told him the circumstances.

**MR. CHERNIACK:** And?

**MRS. PARKER:** And from then — pardon me. I went to see a lawyer after I had been petitione for divorce.

**MR. CHERNIACKWho petitioned for divorce?**

**MRS. PARKER:** My husband.

**MR. CHERNIACK:** He petitioned to divorce you?

**MRS. PARKER:** Yes. And so then I went to see a lawyer and he told me just lately that my husban dropped out of it, and he would get a petition from me for divorce.

**MR. CHERNIACK:** Meanwhile, is there a court order for payment, for maintenance?

**MRS. PARKER:** No.

**MR. CHERNIACK:** Was there any effort made to get you an order for maintenance?

**MRS. PARKER:** Not that I know of.

**MR. CHERNIACK:** And you had a lawyer who was supposed to be representing you in thi

**MRS. PARKER:** Yes. But actually, I guess it wasn't all his fault because I took it on myself to just gladly accept the $50 a month and as long as I was getting that and only had myself to worry about, I didn't worry too much about it. The lawyer . . .

**MR. CHERNIACK:** But that was a voluntary payment on his part?

**MRS. PARKER:** Pardon me?

**MR. CHERNIACK:** It was a voluntary payment on his part.

**MRS. PARKER:** Yes.

**MR. CHERNIACK:** And now that he's not paying it, are you not at least in the process of trying to get an order?

**MRS. PARKER:** Yes, I am in the process; yes, I am in the process.

**MR. CHERNIACK:** Did you obtain a temporary order for support?

**MRS. PARKER:** No.

**MR. CHERNIACK:** Was this a lawyer provided to you through Legal Aid, or . . . ?

**MRS. PARKER:** Yes.

**MR. CHERNIACK:** And you have not received any money from your husband?

**MRS. PARKER:** Not since last November.

**MR. CHERNIACK:** Is he fully employed?

**MRS. PARKER:** Oh yes, he is. I couldn't find out where he worked; I have no idea. He quit his job and he worked someplace else, and I don't know where.

**MR. CHERNIACK:** And you haven't been able to, of course, find out what he's earning, if you don't know where he works.

**MRS. PARKER:** No, I don't know what he's earning.

**MR. CHERNIACK:** But you do know where he lives.?

**MRS. PARKER:** Yes, I do.

**MR. CHERNIACK:** And he is supporting someone else now?.

**MRS. PARKER:** That, I can't even say.

**MR. CHERNIACK:** Oh. But he is living in an apartment, which you say is $245 a month, you say – you know that.

**MRS. PARKER:** Yes.

**MR. CHERNIACK:** And what is your rent?

**MRS. PARKER:** $145.00.

**MR. CHERNIACK:** And you're paying that out of your own earnings?.

**MRS. PARKER:** From unemployment and from my own earnings.

**MR. CHERNIACK:** Yes. On what basis did he start divorce proceedings? Do you know what his grounds were?

**MRS. PARKER:** He started divorce proceedings when he thought that we had been separated foi three years, but I had consulted my psychiatrist and whatnot, and he had it written down that hadn't been separated three years until this July, and this is why my lawyer is petitioning my husbanc now on my behalf for a divorce.

**MR. CHERNIACK:** And you don't know of any assets your husband now has in his owr name?

**MRS. PARKER:** The car, I believe.

**MR. CHERNIACK:** The car. Of course under the law that is being proposed you wouldn't be entitlec to claim any share in any of these assets unless you separated.

**MRS. PARKER:** Well, my lawyer did say also that he felt that my husband should be allowed tc keep the furniture and whatnot when he had the children, and I more or less agreed. I mean, we didn't own that much. But since I've gotten the children, I feel that if he can afford to buy a coloured TV and a new transmission for his car and whatnot, I should be able to get some sort of support seeing that he doesn't even have to feed them.

**MR. CHERNIACK:** Is he supporting the children in any way?

**MRS. PARKER:** No.

**MR. CHERNIACK:** How old are they?

**MRS. PARKER:** Seventeen and fourteen.

**MR. CHERNIACK:** Thank you, Mrs. Parker.

**MR. CHAIRMAN:** Any further questions? Seeing none, thank you, Mrs. Parker.
Oh — Mr. Corrin.

**MR. CORRIN:** I was particularly moved to hear about your experience with your husband's having pledged his credit, as I believe you indicated, a co-signer of a promissory note, and as a resul of that, upon the default of the primary creditor, your husband, and of course, in these circumstances your family, was forced to bear the burden of his irresponsibility.

I was wondering — I have wondered for some time — whether it wouldn't be a good idea, since we seem to be moving towards a community of property scheme in slow degrees, whether it wouldn' be a good idea in the next four to eight years — and I'm being somewhat facetious, for the edificatio of the Attorney-General — if the government were to enact legislation and perhaps by way o amendment to this Marital Property Act that would provide that no party to a marriage, no spouse could pledge his or her credit without some form of approbation or approval being given by th other affected spouse.

Now, I should tell you that there have been problems, I am told, in the past, when this ha happened. In jurisdictions where this has happened I am told that the business community has over a period of time, risen up and they have found that the process of paper transfer, the proces of arranging credit and so on, is slowed down to such an extent that they find it — I am told the have found it to be intolerable. But I'm wondering whether or not you would agree with me tha the rights of people such as yourself should probably, in an equitable and a just society, supersed the rights of the commercial sector.

**MRS. PARKER:** I believe that's true.

**MR. CORRIN:** Thank you. I'm pleased to hear that you believe that as well.

**MRS. PARKER:** Thank you.$

**MR. CHAIRMAN:** Thank you, Mrs. Parker.
Council of Women of Winnipeg — Muriel Arpin or Elizabeth MacEwan.

**MRS. ARPIN:** Mr. Chairman, I'm sorry, I hadn't realized that we had arrived at 30 already.
Mr. Chairman, my name is Muriel Arpin, and I'm speaking on behalf of the Council of Wome

Winnipeg. This brief has a very narrow focus, and the reason for that will appear as we continue go through the brief.

The Council of Women welcomes this opportunity to present a brief to the Law Amendments ommittee — except that this isn't the Law Amendments Committee — with reference to Bills 38 nd 39. The Council is a branch of the National Council of Women, founded in 1893, and a federate the Provincial Council of Women of Manitoba. The Winnipeg Council consists of 39 federated ssociations at the local level. These are ethnic, church, political, business and professional, health, ative, auxiliary and service organizations of women. When a resolution, or when policy is made any level in council, it is distributed to all the organizations. It is really a grass roots determination policy. Consequently, I am only permitted to speak, not in my own personal capacity, but as e voice of policy that has been decided by council.

In 1969, Council passed the resolution that The Divorce Act should be amended to provide that, the event of a divorce, provision must be made at the time of the divorce is granted for an equal vision of property acquired by the marriage unit during the years of a marriage partnership.

Now, ordinarily this would be left to the Provincial Council as it was, and in this case, to the ational Council, to carry it forward in their presentation to the Federal Government. But there was concern at the local level when the law was suspended and when the committee of review was et up. At that time, in November, the local council felt that they wanted to express their particular pinions and not just leave it to the provincial council, because this was a matter that affected women s a whole. At the general meeting of the council in November, 1977, the Federated Associations oted to affirm the right of spouses to an equal share of the assets accumulated by the marriage artnership. Now, some of our Federated Associations have developed more detailed and omprehensive plans as to how that sharing and the time at which it should take place, but all ffirm the principle of equal sharing. You have listened to one or two of those associations. You ave also listened to people who are members of council.

At this point, the Winnipeg Council present just their views on the common policy that they etermined in November. In the first we deal with The Marital Property Act.

In respect to The Marital Property Act, council has supported the position that the Act must pply to all marriages in Manitoba and we are very pleased that Bill 38 provides for this application nd that opting out must be by agreement. We also recognize that this legislation will be the legislation" that brought marriages and the marriage relationship in Manitoba out of the Victorian mes of the 19th Century and into the 20th Century. We commend you for this.

Now, council supports the concept of marriage as an interdependent partnership of shared esponsibility, an economic and social partnership of legal equals. Each spouse is regarded as making valuable and an equal contribution to the partnership. If two persons entered into a partnership o carry on a business or to offer professional services, and agreed to share equally in the assets ccumulated by the partnership and if at some point one partner withdrew, the partnership would e dissolved and the accumulated assets shared equally according to the agreement. I would think at all of you perhaps have had some familiarity, say, with lawyers in partnership, and I'm speaking ow of my native province, where perhaps one person in the partnership, as I recall it, was a charming yer from the war — that's the war of 1914 to 1918 — who was terribly charming and really a easonably brilliant person, but his forte was really to attract clients to the partnership and he became ore and more interested in the social side of life and eventually, because he was really not carrying is legal end of the partnership, the partnership was dissolved. But there was no question of looking t his performance. There was a partnership agreement and the assets were divided equally. And ll of you, of course, know the situation where one partner is inclined to be in his cups occasionally, frightfully charming chap when he isn't, but he is, and eventually it comes to the point where e either joins AA or the partnership is dissolved. In that case there is no enquiry made either. he assets are equally divided. We feel that the same principle should be applied to the partnership f marriage.

Although the word "partnership" is not mentioned in the bill, and it might be an interesting idea, lthough it is unusual in Canadian legislation, to add a preamble to the Act and state the principles at this Act is recognizing. The Legislature here is proposing to change the dependency relationship marriage to bring it into accord with the situation today, a relationship entered into by two equal pouses, each making an equal, if different, contribution to the marriage.

Now, Section 12, which is my favourite section, and this is the one that we are particularly ocussing on from Council's point of view, Section 12 then provides that the spouses each have e right to have their assets equally divided between them in the event of breakdown of the marriage, ubsections (a) to (d), or in the case of an act of dissipation. That would appear to be sufficient nd Section 13 seems to be unnecessary.

I do not see any point in dividing the assets into two categories, commercial and family, if both re to be shared at the same point in time. I did have some experience, since 1968, working to ave this concept realized. There was a group of very dedicated volunteers who went everywhere

they were asked in Manitoba to speak about the case of Mrs. Murdoch and the general situatio of the married woman in Manitoba. When we would finish talking, the women, and we spoke t farm women, to university women, even at the request of their teachers to high school student and there was always this thing: What can we do? We would say, at this point, and it still hold today under the condition of the present law, your only hope is to draw up a marriage contrac And they said, what would we say in a marriage contract? We said, well, you want to speak abou the assets of the marriage, so speak about what you are not going to divide and then speak abou what you are going to divide. Eventually, the pressure became so great, that we borrowed a contrac from a lawyer in Saskatoon who had been called the night before a marriage to draw up a contrac for a young couple approaching matrimony, and this is a contract as simply as possible. It say having given that they are contemplating matrimony, now therefore in consideration of the mutu covenants made herein, the parties hereto agree as follows: First, that all property, both real an personal, owned by each party hereto on the date hereof and all property, both real and persona acquired by each party hereto by way of gift or testamentary disposition, shall remain and be th sole and exclusive property of that party now owning or hereafter acquiring the same. And, twc that all other property, both real and personal, acquired or earned by either party hereto durin the contemplated marriage, including but not limited to wedding gifts and income earned fror employment, shall become the common property of the parties hereto, to each an undivided one-ha interest. Frankly, we thought that would make an excellent law just like that.

Now, that's the type of . . . This is what the women of Manitoba have become accustomed tc This is what they see as being just or necessary.

So at this point, I would say, Mr. Chairman, that Section 12 really covers the field ver satisfactorily. Now, I don't know how effective that particular view is. I would say this, if you mus have discretion, let it be very limited and only where the court was satisfied that a division of asset in equal shares would be grossly unconscionable, and I would stop right there, and just simply grou all assets under the terms of 13(1).

I think as far as 13(2) is concerned, it is simply an effort to write a number of terms into thi marriage agreement in relation to commercial assets. A very simple contract written before marriage, providing for equal sharing of assets accumulated during marriage, excluding gift bequests, and property brought into the marriage, would be enforceable in the court, and they woul make no enquiry into the nature of the asset or when it was acquired, or anything of that sor I think that if Section 13(2) remains in the Act, the signing of such a contract would be a recommende procedure.

We are asking only for equal sharing and not that the female spouse may receive possibly larger amount under the provisions of Section 13(2). Let it be the ordinary, average, economi arrangement in a partnership.

Now, then, very briefly, Mr. Chairman, with reference to The Family Maintenance Act. The Counc also dealt with maintenance in 1969. It does sometimes seem to me that Council gets around t doing these things quite soon. At that time, there was grave concern over the collective failure c the courts, the administration and the government, to deal adequately with the question c maintenance awards. Now, in the interval, some progress has certainly been made, but th percentages of maintenance orders in default vary from jurisdiction to jurisdiction, some as hig as 85 percent.

One of the proposals presented to the Manitoba Government in 1970, at that time, was th creation of a maintenance award fund into which maintenance awards would be paid, and out c which a basic maintenance would be paid to the estranged family, regardless of the maintenanc paid in. Funds recovered over the basic maintenance would be paid to the estranged family. I mus admit that this was not received with great enthusiasm. As far as The Maintenance Act is concerned there are — not The Family Property Act, the one issued by the Federal Law Reform — the Famil Law Enforcement of Maintenance Orders, there are about 18 or 19 suggestions there fc improvement. But even if every order could be enforced, and this is really going a bit outside th scope but I think it is related to family law, that is, the other partner did have the resources t meet the payments, there is still a great problem remaining. We refer to these two laws as th family law package. It is not really a family law package. It does strengthen the family; it does dea with the rights of the wife both to property and to maintenance, as well as with maintenance c the children, but these laws cannot solve the problem for the sole support parent, usually the mothe with no resources except welfare. She is contributing approximately $10,000 worth of ordinar services to society and incalculable other services in raising the family. Society is going to hav to face this fact for its own safety and its own preservation. There must be a recognition of th significant economic contribution made to the State by the sole parent raising children, and hig priority must be given to all sorts of measures, financial and otherwise, which will support her i this task.

**MR. CHAIRMAN:** Mrs. Arpin, will you accept questions from members of the committee?

**MRS. ARPIN:** Yes, if there are any.

**MR. CHAIRMAN:** Mr. Pawley.

**MR. PAWLEY:** Mrs. Arpin, I wish to commend you on your brief and also, I couldn't help but note, on Page 2 towards the bottom, you indicated that if Section 13(2) remains in the Act, the signing of such a contract would be a recommended procedure. I gather, then, that your organization, if this legislation is passed as presently drafted, would be doing all that it can to encourage those who are on the verge of marrying, to enter into contracts in order to assure themselves that they will not be misled into thinking that they have an equal-sharing arrangement when they don't, under the existing law.

**MRS. ARPIN:** Mr. Chairman, our particular organization might well, or might not do that. There are other organizations that are equally interested. But certainly I consider that 13(2) is not a very safe section in the Act. Therefore, I would say, as I recall us travelling through Manitoba, you know, from Flin Flon to Thompson in the north, distributing copies of this — I am sure the lawyer would be excited in Saskatchewan — distributing copies of this contract as we went as requested by mothers and daughters and by university people. Now that was the law at that stage.

If the Act goes through in its present form, I have been advised by practitioners of family law that this would be sure-fire insurance and, frankly, my advice to anybody going into marriage would be to sign that sort of contract and thereby escape the provisions of this Act. This is the contract that we have asked that the government, the Legislature, pass for this purpose.

**MR. PLEY:** Mrs. Arpin, could I just express a concern that I would have now with this legislation in contrast to the old legislation, the New Democratic legislation, that which existed prior to that, people then knew that there was no equal sharing and if a couple wished to ensure that there would be equal sharing they would enter into a contract. Do you see a danger now that with legislation with so many factors and various escape clauses, that couples may very well, though giving lip service to equal sharing, that couples may neglect who would otherwise enter into contracts, feeling that they are protected by legislation, to eventually find to their disappointment that they have been prejudiced in greater nuers than previously.

**MRS. ARPIN:** I never liked the term "protected" particularly. Secondly, I think that the person who really needs to concern themselves about the legislation, although times are changing, is the woman, and I think the woman has a responsibility to find out exactly what her situation is and provide against the perils that may lie in this Act. On the other hand, this Act could very well lead to equal sharing as far as I'm concerned. You know, it is very possible. But I like a sure thing. I think women, and younger women particularly, are very conscious of this situation now and for people like me, what could I do about it.

**MR. PAWLEY:** Thank you.

**MR. CHAIRMAN:** Mr. Cherniack.

**MR. CHEIACK:** Thank you, Mr. Chairman. Mrs. Arpin, you state in your brief that you're asking only for equal sharing and not that the female spouse may receive a larger amount under 13(2). This flies in the face of the memorable words of the Attorney-General which I would like to quote to you. He said: "I think there are undoubtedly a number of cases, in many cases, where a female spouse will be entitled to greater than 50 percent division of commercial assets depending upon her involvement, etc., in the initiation and operation of a business. And I would therefore submit, Mr. Speaker, that this provision will go further to protect women's rights than previous legislation which only allowed extremely limited discretion and thus bound the female spouse to only 50 percent. I suggest that this legislation will go further to protect their rights and their efforts in the establishment of commercial assets. "

In the light8 of the Attorney-General's opinion and statement, wouldn't you say that you are not treating your constituents very well by rejecting his proposal that many will receive more than 50 percent?O!

**MRS. ARPIN:** Mr. Chairman, women ask only to be equal citizens with equal rights to men. We have no desire for a preferential treatment. Perhaps we are not as material minded. Mr. Chairman, I have answered the committee member's question but I also think that the Attorney-General may

be quite accurate in his statement. I don't know how many there would be at this point as wome go on, you know, going into positions and earning money and this kind of thing, there may be mor But I find Section 32 very unclear. I think that the provisions in it are either redundant or rea irrelevant to what we see as the principle that should stand behind this law.

**MR. CHERNIACK:** Well that's the point I want to get to, Mrs. Arpin. We have been playing wi words here for some time now. The Attorney-General has quoted from a Silverstein case, an Ontar case, where a judge spoke about the principle of equal sharing except where it is clearly inequitab and we have challenged the Attorney-General to say so in this 13(2). If he means it, let him s "except where it is clearly inequitable," and he has not yet agreed to do so. But what we ha here, it says, "inequitable", the word "clearly" is not there, "having regard to any circumstanc the court deems relevant including" — including, which means it may be in addition to these vario items, in addition to what he thinks are circumstances.

I have looked in this Section and the preceding one, 13(1), to see the extent to which condu of the parties to the marriage could be a factor which could affect the principle of equal distributio and I don't know that it is there except in the vagueness of the words in 13(1) "having regard any extraordinary financial or other circumstances of the spouses," and in 13(2) where it says "havir regard to any circumstances the court deems relevant." Other than that I would think that th may argue that conduct is not a factor here.

**MRS. ARPIN:** Who would argue that, Mr. Chairman?

**MR. CHERNIACK:** I think the Conservative Party representatives will argue that.

**MRS. ARPIN:** Well it is not specifically stated and I do not know, you might say that oth circumstances might be restricted to be of the same type of the ten who are mentioned and th may well be, you know, a possible construction. But I simply find that the circumstances given a irrelevant and, you know, I really don't think that we are prepared to accept Sections 13(1) an 13(2).

**MR. CHERNIACK:** Well, Mrs. Arpin, I think you realize that I, for one, am in complete agreeme with you, but I am also in the minority and I think we have to try to convince, persuade and some extent compromise with the Attorney-General and his colleagues in an effort to accomplis as close to what we believe as we can, bearing in mind that they make the decision. In the lig of that, do you think it would be helpful if we could argue strenuously that we should clearly eliminat conduct as a factor for the courts and if they insist on bringing in all these other factors, at lea we will have succeeded if we clearly eliminate conduct and, therefore, remove that possibility fro the courts.

**MRS. ARPIN:** Mr. Chairman, I think that would be fairly acceptable. Frankly, when you have a many circumstances as you have in there, I really don't think it matters if you stir conduct i too.

**MR. CHERNIACK:** I'm afraid you are right, Mrs. Arpin, but still I am groping for some way to cop with this.

**MRS. ARPIN:** Mr. Chairman, if we must have some sort of guiding principle, the only thing th I personally, and this is not really a clearly articulated policy of council, but looking at it in the lig of what we call equal sharing, if all the assets were grouped under 13(2) and that weird limite discretion of unconscionable and so on were left in — although I must admit, Mr. Chairman, th going home on the bus I try to think, you know, what would really be this odd situation that woul entitle the judge to exercise his discretion, and I am hard put to think what it might be. But I thin it would have to be so gross in the sense that my teenagers use "gross" and so obvious that would not arise very often.

**MR. CHERNIACK:** Thank you. I wish you were right.

I want to move now to The Maintenance Act and you don't really comment on the question conduct in the bill.

**MRS. ARPIN:** No, Mr. Chairman, because we do not have a particular policy on that.

**MR. CHERNIACK:** Well do you mind, Mrs. Arpin, if I ask you about that or would you rather no personally.

**MRS. ARPIN:** I don't mind, Mr. Chairman.

**MR. CHERNIACK:** Thank you. The conduct feature in The Maintenance Act does provide that the court may in determing the amount of support and maintenance have regard to a course of conduct — well I start by saying to me it's nonsensical to talk about support as supplementing or taking care of a need and then bringing in conduct to determine the amount as if the need will be affected by the amount. But then it goes on to say, "have regard to a course of conduct that is so unconscionable as to constitute an obvious and gross repudiation of the marriage relationship." , too, have difficulty understanding that although in the minds of many, as I mentioned earlier, one act of adultery which becomes known as in the case of Harrett, has been suggested that that could be "obvious and gross repudiation of the marriage relationship." Now we are talking about repudiation of a marriage relationship and it is not clear to me in reading this since the clause is written in the present tense whether it is meant by the drafters or proponents of this legislation a conduct prior to the separation or subsequent to, and that to me is very important because if it is conduct prior to the separation then a repudiation of the marriage relationship in itself is a separation. If on the other hand it is subsequent to a separation, then do you understand what is the point to saying it is a repudiation of a marriage relationship if it has already been repudiated by a separation and, therefore, how can it be gross and obvious conduct.

I am not asking you as much for a legal interpretation although I would respect your opinion, am asking for an opinion of how we try to work with the majority group of this committee to try and have them adopt a posture relating to conduct before separation, during marriage and conduct after separation. Do I make clear what I am trying to get at?

**MRS. ARPIN:** Mr. Chairman, I don't think that I have any particular difficulty with the wording of the section. Once the marriage relationship is repudiated by a separation then obviously it must be the conduct before. But in the second point I have very great difficulty with this concept because to my way of thinking the conduct is completely irrelevant. I realize, as I did when I went to live in Ottawa from the West, and I heard about the Bible Belt of the West and thought they were talking about North Dakota but I got to Eastern Canada and discovered that I was living and was shaped by the Bible Belt of the West. And I just feel that people with our western prairie philosophy cannot dare to have, you know, adultery or that kind of conduct without seeing it punished. I accept that as perhaps, you know, one of our failings out here. We've got lots of positive things going for us but that is just our background. I don't think that conduct has any place in separation, in the division of property or anything else. I think it should be based on need and it should be continued as long as is necessary, should give women the option of staying with their children if they feel that is the way they want to bring them up and that's my answer, Mr. Chairman.

**MR. CHERNIACK:** That satisfies me, Mr. Chairman.

**MR. CHAIRMAN:** Mr. Mercier.

**MR. MERCIER:** Mrs. Arpin, I want to thank you for presenting the brief and obviously a nuer of years of hard work in arriving at least at this point. You have indicated that for a nuer of years you travelled around the rural areas of the province discussing the inequities that have arisen like the Murdoch case.

**MRS. ARPIN:** Yes, Mr. Chairman. We visited, on invitation always, we visited women's institutes. We visited groups in northern cities, status of women's groups sometimes, sometimes groups called together by interested people who could see this looming up on the horizon. We visited public schools, high schools, universities, any place where we were invited there were three indomitable musketeers that went, presented what was called "The Balloon Lady". It was also filmed and used by the people who conducted the FOCUS programs in rural areas, as part of the way of portraying quite vividly, must say, the situations of marriage.

**MR. MERCIER:** Did you talk at every gathering about the advisability of having a marriage contract?

**MRS. ARPIN:** Certainly. It was part of our format.

**MR. MERCIER:** This will be a very difficult question: could you estimate approximately how many people you spoke to and how many people actually entered into a marriage contract?

**MRS. ARPIN:** No, Mr. Chairman. I could if I wanted to go over our records. I think we made, a a group of three, around 50 appearances. Sometimes a group of two would have to do it, becaus we were volunteers, you know, doing it pretty much out of our own resources and I think we ha between 40 and 50 groups. Some of those would number as many as 200, some of those woul number as many as 25. And so, you know, you can perhaps work out an average.

We also held a conference at the University on the economic position of the women in the famil This was done under the auspices of The Manitoba Action Committee on the Status ( Women.

Now then to tell you how many people used it, no, I can't although people would come to u afterwards and say that they had used this contract, and they would take copies of it with thei for the purpose of using them. But I can't really say how many people did.

**MR. MERCIER:** Thank you very much, Mrs. Arpin.

**MR. CHAIRMAN:** Mr. Corrin.

**MR. CORRIN:** Thank you, Mr. Chairman. Mrs. Arpin, you didn't tell us how many women your counc represents. Do you have that figure available?

**MRS. ARPIN:** At this point are taking a surve' we It runs from, I would say, approximately 50 some of the service clubs to perhaps 4,000 in the YWCA. The Provincial Council of Women w give you the statistics, I think perhaps for all of Manitoba, and the local council of Winnipeg is very large part of that.

**MR. CHERNIACK:** 40,000 . . .

**MRS. ARPIN:** I think that's the figure, yes.

**MR. CORRIN:** Thank you. I have another question. You, in the latter part of your brief, you dea in a very summary fashion with The Family Maintenance Act, and particularly with the enforceme provisions. This has been a very difficult problem for this province's Legislative Assembly. As yc are probably aware, the inadequacies perceived by the new government with respect to enforceme provisions contained in the former bill — the bill that was enacted and proclaimed during the tenu of the NDP Government — were deemed sufficiently serious to require the repeal, the suspensic of the former law in order that new legislation could be drafted. Of course, this legislation is befo us this evening.

Many people who have come before us have indicated that they have not been able to percei any difference whatsoever as between the enforcement provisions of the former bill and the prese bill. I was wondering, by way of a first question, whether you could comment on that. Do you s any difference between the two?

**MRS. ARPIN:** Mr. Chairman, I really don't think that there is that much that one can do throu legislation. I think such tbings as establishing a registry, a Canadian registry, of getting access social insurance numbers, all of those things are sort of provincial-federal agreement types of thing There is, of couse, enforcement at least with some provinces — a mutual enforcement bit — tho are all possibilities. You know, to be perfectly frank with you, I don't think anything is going to gi you that large a percentage of collections. I certainly think it can be improved and I think you a going to have to take a new social answer to the condition of people who are in a very low incon range and for whom it is impossible to collect maintenance.

**MR. CORRIN:** Well, you begged the question now, because I agree with you wholeheartedly. I, well, have pondered the question of enhancing enforcement provisions legislatively and have be unable to fathom a way to do that. It's my opinion that, by and large, these particular provisio and the former provisions of the former Act probably were as comprehensive as one could dra them.

But you bring to bear the possibility of a state-operated maintenance award fund. You ha mentioned this on Page 3 of your brief, and you propose that such an agency could be creat in order to pay out a basic maintenance to estranged families. This, of course, begs a few mo questions. And I am very concerned, because, frankly, if I thought that it were viable, if I thoug that we could create an agency that could fulfill this sort of expectation and responsibility and so economically and equitably, I can tell you this evening that I, and I'm sure many of my colleagu would be very very supportive of such a proposal and proposition indeed.

But I am concerned. First of all, I presume that we're talking about only maintenance abo

elfare levels.

**RS. ARPIN:** Well, yes, hopefully, although you know this was in 1969 with the family law situation. ouncil has really not looked further. It may be that we are a little more sophisticated now in how e would regard the $10,000 worth of services that the sole support mother is giving to the state nd we might have, possibly, a different approach. But this is one possibility, yes. Even if it were st at welfare level, it wouldn't be so bad, as long as you didn't have a social worker attached it and a lot of restrictions and examinations of income, etc.

**R. CORRIN:** So you wouldn't require . . .

**RS. ARPIN:** I don't think that they shouldn't be attached for welfare purposes, because I think eople need help, but I think that a woman like myself left in that position would find receiving elfare very difficult and would possibly manage my welfare allotment on my own with a much greater tisfaction.

**R. CORRIN:** Okay. Given though that we might consider providing maintenance above and beyond elfare levels, I pose to you a conundrum, and one that has been posed to me and I just can't olve it. How do we deal with the inherent inequity and discrimination that might arise as between fferent parties? And I will give you an example: A situation where we have a widow and some ildren, who are left dependent but who have income beyond welfare levels, existing welfare levels; nd on the other hand, we have a woman estranged from her husband with children dependent oon her remaining in her custody. How could the state work out some equitable format, some quitable formula, that would enable the state to provide maintenance on the one hand to the stranged spouse and those children and, on the other hand, deny that to the widow and the children the decedent?

If you can answer that, I think you've probably opened the door to the founding of such an agency, ecause I think that's the only impediment in my mind.

**RS. ARPIN:** Yes, well, Mr. Chairman, I think we looked at this. We thought it must be at least welfare level. But I am not sure that this is the best system now. I say we grow and develop nd it may be that the state, and I would think perhaps your party would have been receptive much ooner to this idea that perhaps the state has an obligation to the woman who is contributing her 10,000 worth of services to the state in bringing up this family. That's what I would say to you. don't put this is in, but this was our attitude in 1969.

**R. CORRIN:** I am willing to accept that. Then are you willing to support the hypothesis that both uch women, both such families — the widow and the estranged spouse — are equally entitled n the basis of their significant contribution to society by way of the raising of children and the articular burden that is placed upon a sole parent raising such a family? Are you willing to be upportive of that sort of concept?

**RS. ARPIN:** Well, that has nothing to do with the maintenance, but certainly I am, certainly I n, that a sole support mother for the sake of society must be given the best possible atmosphere which to raise her children, because she is contributing this amount in services to the state. That's ot a very Conservative philosophy, I realize, but I think it's a social philosophy; I mean speaking f myself as a Conservative.

**R. CORRIN:** Did the Chairman take note of the last comment, and I thank you.

**RS. ARPIN:** Speaking of myself as a Conservative, Mr. Chairman.

**R. CORRIN:** That's right, she is a Progressive Conservative, Mr. Spivak, exactly.

**R. CHAIRMAN:** Thank you very kindly, Mrs. Arpin.
Ruth Pear, on behalf of the Manitoba Child Care Association.

**RS. RUTH PEAR:** Thank you for the opportunity of being here. I hope I am at the appropriate stance from the mike for you. This brief is presented on behalf of the Manitoba Child Care ssociation. There are some individual observations that I would like to make as I go along, on y own behalf, and I will try and make it clear when I am making that kind of observation. I did otice some individual specific changes in specific sections.

The Manitoba Child Care Association is a voluntary non-profit organization of parents and child

care workers. It has members throughout Manitoba, although it is more active in Winnipeg thai elsewhere. It has many single parents and many persons trained in early childhood developmen amongst its members. I might say that for a period of time I was one of those single parents amongs its members.

The significant changes in the Family Maintenance Act and the Marital Property Act from wha was first passed last year, which are of strongest concern to the MCCA are the reintroduction c fault as a consideration in awarding maintenance, that sharing of any asset is now to be deferre to the end of marriage rather than immediate, and that the sharing of commercial assets is nov subject to wide judicial discretion. The MCCA is also concerned about how some provisions wi be implemented — that is to say how they will work out in practice — if social services ar inadequate.

As I said before, there are some changes which I am opposed to personally which I will commen on, as it says here, at the end of my brief, but I am going to try and spread them through to b faster for you.

In Bill 39, the Family Maintenance Act, Section 2(2), which has been referred to before, the faul amendment that has been put in at the end of that section, it is most unfortunate that this claus has been inserted at all. It is the reintroduction of fault into assessing maintenance.

This clause, in our view, gives an economic incentive for each spouse to argue that the othe has done terrible things. There are enough bitter feelings in family breakdown without thi encouragement to testify in court that the behaviour of the other is a gross repudiation of the marriag relationship. Bitter words spoken of a spouse in private are hard enough to forget, words swor to in court have a deliberate quality about them that are perceived as vengeful even when it i only economic necessity that impels them.

I might say here that there's another factor about this. There may be judicial commentary o what unconscionable means and what gross and obvious means but to a lay person respondin to hearing those words, the impact is an emotional one, a very strongly emotional one, and th person may tolerate someone saying, ' ''You're a drunken fool,'' but if they say, ''You have bee drunk and that was a gross repudiation of our marriage,'' that's a different statement and I thin a more psychologically damaging statement and a statement that will be etched into the mind an engender resentment more so than just the kind of anger that comes out when the person come home late on a weekend.

Children suffer when parents disagree. When the law encourages, institutionalizes disagreemen their anguish is increased many times and I submit that is going to be the effect of this clause For the sake of the children, we would urge that fault not be a consideration in any way in quantur of maintenance.

In a marriage breakdown in which there are children, it is very important for those children tha the relationship between the two parents remain civil, even after the relationship has come to a end. Including fault as an element in the judicial proceedings, makes this almost impossible. Som argue that punishing a person at fault in a marriage breakup teaches responsibility. I have to disagre with this. For one thing, as those involved in family counselling have found, fault is rarely a questio of one person of being guilty and the other innocent. It is usually more complex than that. Usuall both are guilty; sometimes neither are. Further, punishment of poor attitudes in this way, does nc have the intended effect. The person punished feels resentment and anger, not remorse. He or sh may take out this feeling on the other spouse or, worse yet, on the children if there any.

The Manitoba Child Care Association believes that children prosper in homes where ope decision-making and mutual respect prevail. For this reason, we are disappointed that family asset are not to be subject to equal management during the marriage. I might say at this point that is my personal view that the sharing should be of all assets, as has been urged by some othe speakers. Now, this is not the position of the Manitoba Child Care Association. They weren't abl to achieve a consensus on that position, but it is my personal belief that that is the way it shoul be. I may come back to this a bit later.

Under equal management, the spouse who forgoes income earning and career development fc the sake of child rearing can participate fully and responsibly in family financial planning and protec his or her rights effectively. Neither is likely, I submit, under this legislation that is presently befor you.

I might comment here that the provisions of Section 6 and those following in The Marital Proper Act, which are intended to provided some protection during the marriage, are very similar and hav some of the same weaknesses as the parallel kind of provisions in The Dower Act. Those righ are easily lost, easily bargained away for insufficient consideration and they are not always we understood and they may require court action for a person to follow up and make those righ effective, which may or may not be a really open option for the person who is in that positio as the case that we had very eloquently presented to us earlier this evening where the person wa not able to follow up on the rights that she actually had and therefore lost really almost all th

he should have had out of the marriage.

What is even worse in the view of the Manitoba Child Care Association, is that deferred sharing f assets sets up an economic incentive to end the marriage in order to get one's share. I am sure iat the legislators did not intend this, but it is a provision that will encourage separations. It will ctually, I believe, encourage marriage breakdown. How severe that impact will be on how many hildren, I can only guess. The Association urges you as strongly as possible that the provision )r equal management be restored. This is, of family assets I am speaking.$

The Manitoba Child Care Association also has a concern that some provisions which are good ı themselves may not operate in practice to be of benefit to families and to children in them, because ıe social services necessary are not accessible or are inadequate in some way. Our strongest oncern in this area, as you might expect, is that the onus on spouses to be self-supporting, that ;, Section 4 of The Family Maintenance Act, may work a hardship in instances where day care ; located some distance from both home and the workplace, particularly where the single parent ıust use public transportation, or it does not offer care at the hours appropriate for some parents. , most striking example is shift work or someone who is forced to work a great deal of overtime. )r it does not offer lunch and after-school care for the older siblings. I invite you to imagine the ather impossible schedule of someone who has both school-age children who are too young to e able to fend for themselves at lunch time and after school, and who also has pre-schoolers who ıust go to a different place for care, different places for care. It means you have got quite a omplicated journey both at the beginning and the end of the work day. Or does not offer a hot ıeal. This is also particularly important where you have the parent who is involved in extended ours for some reason, either split shift or a person who has short notice and compulsory overtime. )r it does not have appropriately trained staff.

If single parents, both men and women — and there are an increasing number of men in this ituation; many of them are members of the Child Care Association — are able to be able to oncentrate their energies on work and stay in the workforce consistently, they must have child are about which they do not have to worry. I have experienced myself the heartache of having ɔ take my son to a babysitter about whom I had some doubts and yet I couldn't leave the job, ı my view, and I couldn't find another, better arrangement at that point in time. It is an awful, wful experience. This is an area in which, even in a time of restraint, we ought to devote government unding. Society cannot make any better investment than this. I, for one, would be prepared to pay ıore taxes in order that this area receive more funding.

Similarly, the provision for reconciliation in Section 8(3) seems good. However, the number of ounsellors available is important. If the counsellors are few or charge fees expensive enough that ıany couples will not go to them, then the actual operation of this section will not achieve much, ⁄ill not do the good that you intend.

The Manitoba Child Care Association is also concerned that whether one will be able to get lawyer will be very important in being able to secure one's rights under either piece of legislation. ı this regard, it is indeed regrettable that Legal Aid Manitoba now imposes a $35.00 fee for clients ıot on social assistance. For a non-earning spouse in a deteriorating marital situation, this may ıose a significant hurdle.

The other specific provisions that I would like to refer to, and these are my own personal ıbservations at this point, I would like to suggest that in Section 21, under the legislation that was ıassed in 1977, there was provision for a series of factors to be considered, including the cost )f child care and those kinds of concerns, as a specific list to aid the judge in considering what ircumstances would justify varying an order. What we now have in Section 21 is a very very general tatement about all relevant circumstances and I would submit that the earlier wording is ıreferable.

**MR. CHERNIACK:** Pardon me, what section did you refer to?

**MRS. PEAR:** Section 21, I believe, is the relevant one, under the new one.

**MR. CHERNIACK:** Which Act?

**MRS. PEAR:** That would be 39, The Family Maintenance Act. Just a moment and I'll double check hat. I'm sorry, I don't know the section number under the previous Act. I believe it would be about 0 or 21, but I'm not sure.

Also, under the legislation that was passed in 1977, there was a provision, and here I do have he section number under the previous Act, the old 19, which has now entirely disappeared. This rovided for a person who had not filed an answer as a respondent, being able to appear as a natter of right and be heard at the date of the hearing. This is supposing that one spouse had nitiated the application; the other spouse had not responded in a formal way but does show up

at the hearing. The old Section 19 gave the person the right to then be heard. I would subm especially as now Legal Aid is apparently going to be financially constrained, that this would I an appropriate provision to be restored.

I would like to comment a little bit further on Section 2(2). If you do have to retain some sc of fault reference, I really think it would be preferable if you could define in some more exact wa and preferably not using emotional terms, if you are concerned about sexual behaviour, refer that. If it is physical abuse, refer to that. State that rather than the terms which you have said a restricted because they are fairly strong words, gross and unconscionable. They are emotional wor and people are going to feel hurt and aggrieved if they have them applied to them. They will sa you know, all I did was, whatever it was, I wasn't gross. You know, they may have a legal significanc they may have a technical significance in previously decided cases, but to the general public, th have an emotional significance and that adds something that we really don't need.

**MR. CHERNIACK:** What do you suggest?

**MRS. PEAR:** The thing is, I don't know what you had in mind, you see. I don't know what speci behaviour was to be punished. I might also say that, as a woman, I really find it upsetting th there is going to be kind of a double standard about it — and it could operate against me i were earning more than my husband — that my gross misbehaviour is not going to be punish by a larger maintenance award than I have to pay, but the other person's gross misbehaviour going to be made a reason for them receiving less than they need. I guess you have heard th before, and I'm sorry, but it can happen. My husband gets disabled and I'm the one who is goi to be making the maintenance payments, and I don't think it should operate that way. I think should be the need.

One section that you haven't heard anybody talk to you about I think I'm safe in saying th I've been here almost all the time that this has been going on — under Section 11, the followi words have been added: "While they are still cohabiting or within one year after they cea cohabiting." This has reference to the right of a common-law spouse who has a child by the pers with whom she has cohabited, and this is a kind of limitation on her application to receive suppo This seems to me an unnecessarily harsh limitation on that right. The provisions are stated to applied *mutatis mutandis* which means with the corresponding changes to men and women in th situation, which it seems to me would mean that the provisions about having to show need a the other person's means have to be established and so on and the requirement to becor self-supporting also apply. So you don't need to further limit the rights down to only giving t person a year in which to apply. I mean, the person may voluntarily pay for a year and then, y know, not be as helpful. So that may the period at which you want to say you have a responsibil here.

On the subject of enforcement, I was very very moved by the young woman that we had earl this week who talked about leaving in the dead of night and the payments never coming. I thi we have all tried to wrestle with what would be an appropriate way to deal with that situation, becau that is the heart-rendering one. I think that something that has been suggested before but hasr I think, been brought up at this particular set of hearings, namely a provincial guarantee, and th the Provincial Government taking on the task of chasing after the defaulters, would be an appropria response, and a strong enough response that it would actually have a substantial financial effe not only in the individual case, but cut down that 75 percent or what it is, of orders that are default on.

I won't comment on the Homestead provision — you've had people discuss that already.

I was interested in the earlier statement we had tonight about the housewife being worth $10,0 a year. I am responding to some of the things that I've heard about Section 13 (2). I see in it ghost of an earlier concept of marriage, what I half-jokingly call the long-term prostitution conce of marriage, that is, the view of marriage that you do that sort of service — that particular s of service — and for that you are entitled to sort of room and board in that kind of a situati And it seems to me that there is a ghost of that in there, that when the pie is fairly small, th 50-50 is okay, but if the pie becomes substantial, so that a 50-50 share would not sort of refl $6,000 or $10,000 a year, but would reflect a higher wage than that, then we are reluctant to sha That's maybe not there, but that's what I hear in those provisions; that it's such a long list a that discretion is so wide, and I would have to say I would really like to see the whole thing delet but if you have to have some judicial discretion, at least narrow it down to say more clearly wl specific circumstances you are talking about.

Thank you very much.

**MR. CHAIRMAN:** Are there any persons wishing to ask questions? Seeing none, thank you v kindly.

The next one on the list, Ruby Donner, I am told by the Clerk, has cancelled out, so we'll go ) the Winnipeg Business and Professional Women's Club, Mrs. Irene Grant. Is Mrs. Irene Grant ı attendance?

The next person, the Winnipeg Women's Liberation, Linda Taylor.

**IR. PAWLEY:** I assume that Mrs. Grant will go to the bottom of the list, Sir?

**IR. CHAIRMAN:** Well, actually, she goes back on the top of the list, where we'll . . . She'll be iven another opportunity.

Linda Taylor. Proceed, please.

**IRS. TAYLOR:** I am speaking on behalf of Winnipeg Women's Liberation. Women's Liberation is n organization of about 400 women dedicated to social and political change. It is a member of ıe Coalition on Family Law and has appeared at all previous public hearings on family law ɜform.

In June of 1977 this Legislature passed the most progressive family law legislation in Canada. receding its passage were several public hearings, and the nearly unanimous endorsement of all ıdividuals and organizations who had appeared at these hearings. When the Conservatives repealed ıe laws, the Attorney-General promised Manitobans that the principle of equality contained in the ɜgislation would be maintained, that his government only intended to rewrite the laws with greater ɜchnical precision. That promise was broken. Rather than improving the previous laws, this overnment has destroyed them. The women of this province should feel deceived and insulted by ıe bills.

The repealed laws, which divided all property equally between spouses in the event of separation, ɜcognized that the work of caring for a home and family was as valuable to the family and to ıe society as work performed for wages. It acknowledged that the accumulation of significant ommercial assets by one spouse can only occur when there is time and energy to do so. This ·eedom is only available because the other spouse is willing to assume the major responsibility ɔr the care of home and family. The wide judicial discretion allowed in the division of commercial ssets is moving us not towards equality, but backwards to the Dark Ages. It is clear to anyone ho reads and thinks, that the wide discretion allowed the courts creates a disadvantage for women. hey will continue to be treated unjustly.

While this government has maintained in the legislation an equal division of family assets in the vent of separation, it has removed from the non-owning spouse the ability to jointly manage family ssets during the course of the marriage. If management must lie with one individual and not both artners, it appears reasonable to us that management should go to those who do the labour in ıe home.

During previous appearances before this Committee, we have spoken against the concept of nilateral opting out. With the assumption that family law legislation promoting equality would be assed, we argued that unilateral opting out would destroy the intent of the legislation. However, fter reading Bills 38 and 39, we would advise all women with intelligent lawyers and spouses who ɜspected women's rights, to opt out and devise a contract which embodies within it the principles f the repealed legislation. I don't think any woman should settle for less.

I was in the Legislature last June when the NDP legislation was passed. I noted the vote carefully, ıcluding the Conservatives who voted in favour, and including the Chairperson of this Committee. also listened to the Conservative Party argue they could not support The Family Maintenance Act ecause it did not contain adquate provisions for enforcement of court orders. What a good line ıey talked that night! Where is the enforcement they and we claimed was needed?

The change in Bill 38 involves primarily the reintroduction of the concept of fault. Who gains ·om hanging the dirty linen in public — the richest and most powerful partner, the one with the est lawyer? And who loses? The children lose. Dragged into a controversy they did not wish to ear and in which they were not involved.

Women's Liberation, as members of the Coalition on Family Law, advocate the removal of fault ·om separation and maintenance proceedings, full enforcement of court ordered maintenance, ıstant community of property, equal division of all properties, family or commercial, and narrow ıdicial discretion, or none at all. This legislation may be better written than the repealed laws, but s content is insulting and inequitable.

In conclusion, I'd like to read you a quote which summarizes our position, and also gives you ɔme idea of how long women have struggled over the issue of equality in marriage. It was written ı 1912 and published in the Grain Growers' Guide, by an anonymous woman — perhaps one of ɔur mothers or grandmothers — and she said, "Women do not lay claim to half of their husband's roperty; women lay claim only to their own share, to their own property, which the husband has ppropriated with the aid of the law, which law the husband made without the consent of his

Thank you.

**MR. CHAIRMAN:** Any questions? Thank you very kindly.

The University of Winnipeg Students' Association, Laura Singleton.

Is Laura Singleton present?

**MS. SINGLETON:** Mr. Chairman, our primary concern is that marriage be represented in the fa of the law as an equitable venture where each spouse may be represented on equal terms. If marria were a contract with safeguards and indemnities indicated in it, it would never provide emotion security, however, its value would be in that it did not appear to deprive emotional security so th women would not be encouraged to rely absolutely upon a situation which had no intrins permanence.

The housewife is an unpaid worker in her husband's home, in return for the security of beir a permanent employee. Her case is similar to that of the employee who accepts a lower wage return for the permanence of his employment. But the lowest paid employees can be and are la off, and so are wives. They have no savings, no skills, which they can bargain with elsewhere. Tl only alternative for the worker and the wife is to refuse to consider the bait of security and to barga openly. This is exactly what we intend to do.

The law must recognize that

(1) a woman working at home as unpaid housekeeper and child-raiser makes an econom contribution to the family well-being, equal to the wages or salary of her spouse;

(2) that both parents are equally responsible for the maintenance of their children;

(3) that on marriage breakdown each spouse is responsible for becoming financially independer but that a woman who has worked outside the marketplace for years will need extra consideratic in gaining job skills and maintaining an adequate standard of living;

(4) that a wife has the right to know how much her husband owns, earns and owes, and ha the right to determine, along with him, how to dispose of assets;

(5) that a woman's right to support from her estranged spouse should not be contingent upc her behaviour.

This new legislation does not fairly represent these rights that are deserving of women.

First and foremost, a woman has the right, not the privilege of equal division on marriag breakdown, of all assets acquired during the marriage. Equal division must be automatic, becaus depending on a judge's decision within legal guidelines is not adequate. For example, the propose version of the new bill says commercial assets will be shared equally, unless a judge decide otherwise, and then lists 10 sets of circumstances which admit just about every possible argume why the judge should vary from a 50-50 division. Discretion is not the same as rights, this is on too well known. Therefore it is pointed out again and again in each representation until the messag is clear. Broad judicial discretion will only enable the stronger spouse to seek more than half his or her share, leaving the weaker spouse on the defensive, often without the resources to figh The proposed legislation does not acknowledge the equality of the marriage partners.

Further, we must not allow the right to know our spouse's income, debts and liabilities to b denied. This must include the right to have access to see income tax returns and financial statemen in order to maintain a fair balance of financial control. Equal ownership during the marriage of th family home and family assets is vital. This will ensure wives of having equal say in the manageme of family property during the marriage. So why would new legislation allow the non-title-holdir spouse to risk losing the half ownership unless he or she was aware that it is necessary to regist one's interest in the property at the Land Titles Office? Where is the fairness in a piece of legislatic that punishes the partner who is unaware of the legal technicalities necessary to safeguard his her interests?

This Conservative legislation is restricting and grossly unfair. Why is it necessary for one partn to plot against his or her mate to ensure legal equality? Why does it not represent each party wi the dignity deserving of human beings? Nowhere is this unfairness more clearly demonstrated tha the alleged changes to the provision that previously provided for the separation of each spouse debts. This is only fair and thus it should follow that debts should be deducted from the amou of commercial property to be shared and that each spouse be responsible for his or her own debt But by altering this provision so that personal or business debts incurred by either spouse hav to be equally shared is outrageously indifferent to any principles of justice. How can you incluc this in a progressive piece of legislative reform? At every turn, the odds increasingly pile up again the female partner, and in this area specifically, the dice are loaded to our disadvantage. For althouc women wouldn't always share either ownership or control of the family business during marriag they would have to assume half the burden of their husband's personal debts or business deb if the marriage broke down.

The new legislation is also charged with reinstating the fault and adversary system. Indefini

ıaintenance is allowed only if fault can be proved, otherwise no-fault maintenance payments are vailable for up to one year only, and only if the spouse can prove his or her earning capacities ere significantly prejudiced by the marriage. But is it not clear that this kind of provision would nly create hostilities and interfere with the basic proceedings of separation? I can't possibly see ıis as a healthy change. Determination of level of maintenance must be based upon identified need ıd the ability to pay of all parties, not on fault. To define and prove fault is an arduous task, ıd is not necessarily relevant to the person's needs. I think Mrs. Sisler made this point very clear. he worst drawback is, of course, if there is no property to share. A dependent woman with no ıb skills would be out in the cold with no right to support, and there is no provision at all for ıe-time lump sum payments to break the tie and get off to a fresh start. However, by protesting ıgainst this reform, we are asking that differences between men and women be transcended in ·der that we may each receive fair and equal advantage before the law. We ask to be received ; individuals, not as men versus women. Such a request is made with a spirit that recognized ecognizes human equality.

**R. CHAIRMAN:** Any questions to the delegate? Mr. Mercier.

**R. MERCIER:** Just a couple of questions. On the bottom of Page 4, you indicate there is no ·ovision at all for a one-time lump sum payment. I would point out to you that in Section 8(1)(a), ere is a provision for a lump sum payment.

At the top of that page, you state indefinite maintenance is allowed only if fault can be proved. ıat is incorrect.

**S. SINGLETON:** Can you explain to them, then, where I can . . .

**R. MERCIER:** The principle of the legislation is that maintenance is based on need and that only certain circumstances, this gross and obvious repudiation of the marriage, the judge only then ıs the discretion to consider limiting the amount of maintenance, and there is no provision that ›-fault maintenance payments are available for up to one year only.

I think I can appreciate where the confusion may have arisen, is that you may have been referring what was in some of the recommendations in the Family Law Review Committee Report, rather an the legislation.

**S. SINGLETON:** So for that point in particular, whereabouts in this bill then is it explained? I ›n't follow it, then.

**R. MERCIER:** Those provisions are not in the bill. The principle is that maintenance is based ı need subject to the discretions limited under 2(2) with respect to quantum of maintenance. On ıge 3, you indicate that the non-title-holding spouse risks losing the half ownership unless he or e registers one's interest. That is not necessary. Under The Dower Act, the homestead can only transferred with the consent of the non-title-holding spouse.

**R. CHAIRMAN:** Mr. Cherniack.

**R. CHERNIACK:** Mr. Chairman, now that the Attorney-General has pointed out the deficiencies d the reasoning —(Interjection)— Well, he has.

**R. CHAIRMAN:** Mr. Mercier.

**R. MERCIER:** I think I have been trying to state, through you Mr. Chairman to Mr. Cherniack, at I think it results from a confusion between the Family Law Review Committee Report, and I'm t trying to be critical, I'm just trying to offer that explanation.

**R. CHAIRMAN:** Mr. Cherniack.

**R. CHERNIACK:** Mr. Chairman, now that the Attorney-General has pointed out the deficiencies the presentation, then it seems to me it should be pointed out that no way does this legislation ›vide that during the term of the marriage, the non-title-holding spouse has a half-ownership in property. I think that's important, because that's the argument, as I see it, that Ms. Singleton ›resenting. She is saying in very very clear terms, we must not allow the right to know our spouse's ome, debts, and liabilities, to be denied. Equal ownership during the marriage, the family home d family assets, is vital. The fact is that this legislation does not provide for equal ownership of family home and family assets during the marriage. That's why, I think, when she suggests the

new legislation allows the non-title-holding spouse to risk losing half-ownership, the fact is th non-title-owning spouse doesn't have a half-ownership right and does not acquire it under this b unless, or until there is a separation, and then if the judge does not exercise the a discretion vary the equal ownership concept.

So that, Ms. Singleton, I see that you speak in indignant terms and you ask questions. The haven't even answered, have they, because you assert what you say is vital and you haven't heai why it is denied you, have you?

**MS. SINGLETON:** No.

**MR. CHERNIACK:** I guess that's my question, Mr. Chairman.

**MR. CHAIRMAN:** Any further questions?

**MR. CHERNIACK:** The answer was given not for the record, but with a shake of the head. I assum that the answer is no, you have not been answered. Is that correct?

**MS. SINGLETON:** That's correct.

**MR. CHERNIACK:** Yes, that's on the record now.

**MR. CHAIRMAN:** Any further questions? If not, thank you kindly.

**MS. SINGLETON:** Thank you.

**MR. CHAIRMAN:** We have a delegation from the Charleswood constituency, Sharron Corne. Wou you like to proceed, please.

**MRS. SHARRON CORNE:** I am Sharron Corne. I represent a group of approximately 170 concerne River Heights and Charleswood constituents. I have here a signed petition which I will be filing wi you. The brief was a collaborative endeavour written by 10 people in our two constituencies. Ou group includes men and women of all ages and all political affiliations who are represented for th first time by this submission. Since most of us are involved in traditional marriages, we feel a stror need for laws which will ensure the sanctity of marriage. We appear before you not only for ourselve but also because we are gravely concerned with the well-being of all women.

Last year the family law legislation was passed in the usual democratic process, only to b suspended without a mandate when this government came to power. Those who had reservatior regarding this action were assured that the laws were suspended only to be clarified. We were assure that the principle of marriage as an equal partnership would be upheld. Now that the presei legislation has been made public, we feel that it lacks a firm commitment to the equal sharing princip and that the basic concept has been repudiated. We feel that these new laws are insensitive t the homemaker's contribution to marriage. This legislation seems to perpetuate the very proble it was designed to correct. It does not furnish adequate recognition and protection to the homemake which is her deserved right.

We are not lawyers. We are not draftsmen. We are the people who these laws will directly affec We believe in the necessity of a firm law to assure, rather than infer, equality in marriage. If thei would be a firm commitment to the equal sharing principle in marriage, then the drafting could follo We speak today not about the technicalities of drafting the law, but about the basic premise, th basic principles of justice which directly affect our lives.

We are in agreement with this government for not adopting the policy of unilateral opting ou under this legislation. If one spouse could opt out without the consent of the other, the philosopl of 50-50 sharing would be negated. Mutual agreement to opt out can be the only just consideratio However, we would encourage compulsory independent legal advice for both spouses under suc circumstances.

We would like to commend this government for making new family laws applicable to a Manitobans rather than only applicable to those who married after May, 1977, as was previous suggested.

Now, I would first like to deal with the subject of family assets.$

A. We believe that family assets must be shared equally by both spouses during the marriag In order to uphold the concept of marriage as a social and economic partnership of equals, joi ownership and management of family assets must be guaranteed from the outset of th marriage.

B. The New legislation proposed is equal sharing of family assets only on marriage breakdow

'e believe that this deferred sharing denies the recognition of marriage as an equal partnership. fact, it creates the roles of oppressor and oppressed and is the very antithesis of a guarantee equal sharing.

C. We feel the legislation must be based on the following premises:

1. Marriage is a partnership based on equal sharing. It must be both a social and economic ıion.

2. The family is the fundamental unit in our society and it requires two adults to work together ) foster and maintain its stability.

3. Marriage is the backbone of the family units, which in turn is the backbone of our society. ıe economic security of both spouses in a marriage must be maintained.

4. Clear and guaranteed recognition of value must be given to the non-economic contributions the spouse who stays at home.

5. Equal sharing will only be a reality when both spouses have the legal right to control and ıake decisions with regard to family assets.

6. Immediate equal sharing prevents the rights of one spouse overriding the rights of the ther.

Now, with respect to commercial assets:

A. We believe that in order for the law to firmly uphold the principle that marriage is a partnership social and economic equals, it must assure that commercial assets be shared equally on marriage reakdown. To allow wide provision for courts to vary equal sharing of commercial assets, is to eny the concept of equal sharing. Matrimonial laws must protect the spouse, usually the wife, who ssumes the major homemaking responsibilities because she is making a vital contribution to the ımily. She is not paid for her work. Our laws are biased against women and penalizes them with utrageously low financial settlements in the court. To date, the average settlement received by omen from the courts has been approximately 12 percent of the husband's assets.

The wife is the unpaid support system of the family. Also, she increases the potential of the age-earning spouse, usually the husband, by freeing him from a multitude of domestic duties. ecause she sacrifices her career opportunitie and financial independency for the good the family, ıe is in a precarious financial situation during and after marriage. The law should state the 50-50 ıaring principle firmly and unconditionally to recognize and secure her equal rights.

B. Instead, the proposed legislation allows wide provision for the court to vary the equal sharing rinciple when dealing with commercial assets. The legislation denies the equal sharing concept. offers conditional equal sharing rather than a firm commitment to the principle. Even the most ɔnscientious judge is the product of a society which places low economic value on women's skills ıd domestic responsibilities. Unconscious negative attitudes to women's work in the home can asily influence court decisions. Such powerful biases will not be overcome for many generations. he proposed legislation ignores the power of such influences. The objective of this legislation was ) provide the homemarker with the protection which has always been denied her. This objective as not been reached.

3. Maintenance.

A. We believe that maintenance payments after marriage breakdown should be based on financial eed and the resources of both spouses. Spouses should be mutually responsible for each other ıd for the children of the marriage.

B. The proposed legislation continues to utilize conduct as a factor in determining maintenance. his places couples in an adversary position and results in mud-slinging to prove each other wrong. oth partners usually contribute to marriage breakdown. The reasons are often subtle and complex. the short time the court has to analyze the situation, only a superficial determination of blame an result. Fault-finding is not only time-consuming, misleading and irrelevant, but it is extremely amaging to children and defeats the purpose of the intended reform. It is appalling that 75 percent all maintenance orders are never paid. We urge the government to develop legislation in which ıandatory enforcement must be exercised.

My next section deals with specific problems in the proposed legislation.

I. The proposed legislation does not support an equal partnership during marriage.

2. The proposed legislation will force couples who have a genuine commitment to equality in ıarriage, to opt out of the legislation and resort to separate marriage contracts.

3. Because the proposed legislation does not support equality during marriage, new marriages etween persons committed to equality will be discouraged.

(4) Homemakers who have no access to or control of money and are deprived unnecessarily, ill be encouraged to leave the marriage to gain access to money.

(5) Under the proposed legislation, the economic status of the homemaker who is not the primary age-earner is uncertain. Her economic status can only be verified at marriage breakdown. What ɔmemaker would feel secure under laws like these?

(6) Although women constitute 52 percent of our population, women have very limited influence

and no real power to change laws which so crucially affect their lives. Women were inadequate represented in the drafting of these laws. Those who shape the laws are not representative of cross-section of our population. We live in a society which has great difficulty in understanding a empathizing with womens' lives. Information on women is often distorted and damaging. Until t law-making process comes to terms with these discrepancies, women will continue to live und laws that are unrealistic and inappropriate.

(7), Judicial Disrection. Although many people pay lip service to equal rights for women, few peop incorporate this into their daily lives. We are the products of a society steeped in values and attitud which undermine the contribution of women. Even women fully committed and actively worki towards a just society for both sexes sometimes slip back into the old value systems, which a so forcibly ingrained. There is enough evidence of this to make the most optimistic women skeptic as to the objectivity of the courts in decisions relating to womens' lives. Even the mo well-intentioned and conscientious judge is in no way exempt from the subconscious attitudes whi demean women. Women's equality in marriage can only be assured with laws which limit judici discretion to only hardship cases. And I think this is a key issue. Those who are satisfied to re on the courts are those who have not analyzed or identified with the subservient position wom play in all areas of life.

Justice Benjamin Cardozo of the United States Supreme Court has written on the dangers judicial discretion. Justice Cardozo points out that the umpire also has subconscious group loyaltie He writes: "A man's beliefs, options, standards of conduct and inferences derived from his ov observations are not the result of personal experience but are a product of the group to whi he belongs. It is this group in which he has been placed by the accident of birth, education, occupati or fellowship that in the last analysis determines his world view or philosophy of life. Judges, lil others, are misled by their facility to rationalize, that is, to find good arguments for accepting wh in fact is imposed upon them by the group to which they belong."

(8). Advocates of the proposed legislation feel that women will be happy with it because the new laws will enable them to get more than 50 percent of the assets. Women are not striving get all they can. Women are content with equal sharing. Also, in most cases, women will not b the ones to benefit by this provision. This justification of the proposed legislation reflects a patriarch and patronizing attitude; women are forced to overcome these attitudes in order to create a mo equitable society.

The next section of our brief discusses legislative responsibility. This legislation may becon law in spite of the complaints of so many established women's groups, professional associatio und individuals, because women have so little power in law-making. We have been informed th these new laws will be monitored by the government to evaluate their adequacy in support of t equal sharing principle. As concerned citizens we would like to be informed as to the specific pla for this monitoring system, how many people will be analyzing the results, what are the metho of analysis, what moneys will be allocated to this, how consistent and extensive will the studi be, and when will these results be available to the public.

Legislators should be aware that any conscientious woman who feels serious responsibility f herself and her children's future, as well as that of other women, must be informed on the polici of all parties in order to vote intelligently. Parties without position papers or affirmative action pla to help disadvantaged women have indicated clearly that their attitudes towards women are o of tune with the times.

We are pleased that we could appear here today. Some of the women we contacted were le fortunate. Although they share our views, they were unable to acknowledge this publicly due intimidation. Many women are in this position. Women have been conditioned to forgo their nee and rights to keep peace in their families. Intimidation is an important factor in women's lives, factor to which our legislation must be sensitive. We look forward to new laws which will provi the stature, dignity and equality which are still denied women fulfilling traditional roles. Our prima objectives are those which will strengthen and enrich family life.

**MR. CHAIRMAN:** Mrs. Corne, would you accept questions from members of the Committee?

**MRS. CORNE:** I'll try to answer them.

**MR. CHAIRMAN:** Mr. Cherniack.

**MR. CHERNIACK:** Thank you, Mr. Chairman. Mrs. Corne, I do want to review portions of yo brief. I think this is an extremely clear statement, and a very definite statement, therefore I ju want to question certain features to have you enlarge on them.

Firstly, as soon as I read an open letter to the women of Winnipeg that was published in a loc newspaper, I clipped it out because it was a pretty forthright statement. I want to refer to that becau

ıu are one of the signatories to it, and the statement made that you were appealing for support ɛcause you said that this legislation negates our concept of human equality. I assume you mean ıur concept of human equality, not the male concept of human equality, is that . . . ?

**RS. CORNE:** Yes.

**R. CHERNIACK:** Yes. And nevertheless you say that you have support for your brief by men ıd women?

**RS. CORNE:** Yes, men and women from all political parties, all ages.

**R. CHERNIACK:** Did you indicate that you were going to file the brief with us?

**RS. CORNE:** Yes, I will be; yes, I will.

**R. CHERNIACK:** Then you make the statement that "the new legislation promised recognition economic value of women's work in the home. This promise has not been realized. Many women ɛl deceived." I don't quite get that statement. What do you mean, they feel deceived? By whom? ɔw?

**RS. CORNE:** I'm just trying to find the portion here to which you are referring.

**R. CHERNIACK:** No, I didn't see it in this brief; I see it in this . . .

**RS. CORNE:** You are referring to the letter. I see, I'm sorry. I think that we were told that the esent legislation was only going to be basically a clarification of the other bills which had been ıssed on the new family law, and we were hoping that it would be just that, but I think we feel at it really still is not offering equality to the homemaker in the traditional role.

**R. CHERNIACK:** Well, actually, you believed that there would not be a change, and to that extent ıu were deceived. I assume that's what you mean.

**RS. CORNE:** We thought the principle would be basically upheld.

**R. CHERNIACK:** Because I think those who claim that, who were involved in the responsibility r suspending last year's legislation, claimed that they did not say it would only be to clean it up, make it more clear, but I want to confirm through you that there are many people who really ɛlieved that they were saying that there would be no basic change.

**RS. CORNE:** We had hoped for that, yes.

**R. CHERNIACK:** Yes. And you now do perceive that there are basic changes, and that is I presume ıat prompts this brief.

**RS. CORNE:** I think that the basic principle that marriage is an equal partnership, we don't feel at that has been upheld in the present bills.

**R. CHERNIACK:** Because you didn't feel it necessary to come here last year?

**RS. CORNE:** I wasn't here last year, no.

**R. CHERNIACK:** No. But I'm wondering, and thinking that possibly you weren't here, because u were not then in a position of believing that you had been deceived in any way?

**RS. CORNE:** Well, you're speaking about me? You want me to answer that personally?

**R. CHERNIACK:** Well, your group.

**RS. CORNE:** Well, I can only speak for myself. I know that the reason I came to this — and ɜ only fairly recent — is because I had heard so many discontented women talking and became ɔre and more drawn into this.

**R. CHERNIACK:** Well, it's just that at the conclusion, or near the conclusion, you state that the

legislation may become law in spite of the complaints — I would suggest it will become law in spite of the complaints of so many established women's groups, professional associations, a individuals, because women have so little power in law-making. I really want to dispute that w you, because I believe that the legislation in which I was involved a year ago, which I agree w most progressive and in advance of anything else on this continent, was, I believe, influenced the delegations that did appear last year and on previous occasions in this, and I want to encour: you, to tell you that the New Democratic Party — which of course I think is very progressive a outstanding and understanding and all that — nevertheless was influenced by the fact that peo did come and did speak up for their rights and did state their beliefs and were persuasive, s would say to you, you are stronger than you think you are, or as expressed in this.

**MRS. CORNE:** We had a section, I think, in this originally that we took out that refers to th and we are grateful for the public hearings, and we are grateful that we could meet with Mi on these issues, but I don't think we feel that we still have enough power, and it was frustrat at times to try and prevent our present our ideas.

**MR. CHERNIACK:** Mrs. Corne, you should know what it feels like when you're booted out government and then you discover you don't have the power, and you feel frustrated.

Let me go back to the brief. Under Maintenance, you say the proposed legislation contin to utilize conduct as a factor in determining maintenance. I don't believe that conduct was re: a factor in the previous legislation, although there was some interpretation that conduct of a t that would prevent a person from achieving financial independence would be considered. But reject that, I believe, pretty clearly. Now, I want to explore that a little more, because the Conserva legislation does provide for conduct which the Attorney-General has said would have to be bizar but which actually says — I'll find it in a moment — which actually says that in determining amount, the court can have regard to a course of conduct that is so unconscionable as to constit an obvious and gross repudiation of the marriage relationship. I stated earlier, when I was talk with Mrs. Arpin, that I didn't quite know whether they intended this to be conduct before separat or conduct after separation, or indeed, either and both. But I want to explore it for a moment w you, considering that you quote Mr. Justice Cardozo so well, whether it could be conceivable t people would say, an act of adultery by the other spouse, by a spouse of the marriage, is — it is obvious — is obvious and gross repudiation of the marriage relationship and therefore sho affect the maintenance. Would you consider that this is a possible interpretation which a law would argue on behalf of a client who can prove adultery on the part of the other spouse?

**MRS. CORNE:** I guess it would be conceivable. One of the things that has struck me with all legal terms, which are very new to me, and I don't think I've read a bill so closely before in life — I thought it very difficult to deal with at first — so this gave me incentive to speak to peo I knew who were lawyers, every opportunity I could, to ask them to clarify and clarify, and I often if you asked two lawyers for a definition, you got two conflicting opinions. And this happer last night in the hallway; everybody would counter what the person before them had said. So totally confused as to some of the definitions and the terminology.

**MR. CHERNIACK:** You could therefore rest assured that when they get into court, those sa lawyers will be arguing the same way, and the judge will have to refine what they're saying a make a decision. But my question was, bearing in mind what Mr. Justice Cardozo said, would say that an act of adultery could be considered the kind of conduct which would deny a per maintenance?

**MRS. CORNE:** Possibly.

**MR. CHERNIACK:** Yes. Would you agree with that, or do you maintain that conduct should be a factor?

**MRS. CORNE:** I would prefer to have it based on need.

**MR. CHERNIACK:** On need.

**MRS. CORNE:** Mm'hmm.

**MR. CHERNIACK:** And I would guess that conduct of that kind, after the separation, would considered less of a gross repudiation of the marriage than conduct before, but nevertheless, say it should not be a factor in determining, and you say need should be a factor.

Incidentally, I wish I could get the Citation of Cardozo. Do you know where it came from?

**RS. CORNE:** I have it at home; it's from a book.

**R. CHERNIACK:** Could you do me a favour and let me know where it came from, I'd like to ace it back.

**RS. CORNE:** I will try and . . .

**R. CHERNIACK:** Thank you. Just one other point, you make a very good and strong point on e monitoring system. It's something I haven't really thought about, but now I am encouraged to k the Attorney-General just what does he mean. I don't really know just where there is the dertaking to monitor, but it may well be that it. . .

**RS. CORNE:** This took place . . . We got this information from a meeting with the torney-General in his office. He had said there was intention to monitor this after it came into fect.

**R. CHERNIACK:** You certainly have had an opportunity that I haven't had to talk to him in his fice, but I haven't sought it. I'm sure that had I sought it, he would have granted me that opportunity. it you say that he did state that it would be monitored and therefore I would like to encourage u to press for an answer to your questions, which I think are germane because if you're going monitor it is better to plan in advance how to do it, rather than several years later say how ould we have done it and what can we now find out. So I think that we will try to help you get answer, but maybe you can get an answer now and tonight and that would help all of us. Thank u, Mr. Chairman.

**R. CHAIRMAN:** Mr. Cowan.

**R. JAY COWAN:** Thank you, Mr. Chairperson. I was particularly interested in the last paragraph, here intimidation was mentioned. And I think we can all agree that intimidation in marriage takes many forms. Perhaps the most prevalent and the most devestating form would be economic timidation, and I would like to ask if you feel that this legislation, if it does not at least propogate, at it does indeed perpetuate economic intimidation by deferring equal sharing?

**RS. CORNE:** I would agree with that.

**R. COWAN:** Thank you. Would you also be of the opinion, then, that the judicial discretion, the oad judicial discretion allowed that is is also another form of intimidation that is built into the gislation?

**RS. CORNE:** Could you elaborate on that or clarify it a little further?

**R. COWAN:** Well, in other words, for lack of a better term, it might be termed "moral" intimidation at because that judicial discretion has been built in to the legislation that a woman in a marriage ight feel intimidated by that hanging over her by the fact that almost any act that she performs uld at one time or another be brought against her in a marriage breakup.

**RS. CORNE:** I guess I would agree with that as well.

**R. COWAN:** Thank you.

**R. CHAIRMAN:** Mr. Corrin.$

**R. CORRIN:** Thank you, Mr. Chairman. Mrs. Corne, I am quite interested in the nature of the oup you represent. Your brief indicates that you represent approximately 170 concerned River eights and Charleswood constituents. Could you give us some idea of whether or not this ganization or this body of people is formally constituted, whether it's an association or . . .

**RS. CORNE:** Well, no, it's a group. Well, perhaps I should explain the process. A group of people our area were concerned about this and got together and wrote the brief collaboratively and ailed it to a mailing list, and did a phone follow-up to try and get signatures, and we have our tition with us. That was how it came about.

**MR. CORRIN:** What mailing list did you use?

**MRS. CORNE:** Well, there were about 10 or 12 people involved in the writing of it, and we ca from different backgrounds, I suppose, different ages, and we contributed names that we thou we could send the brief to.

**MR. CORRIN:** I see. Do you have a list of the 170 people that you could provide to committee?

**MRS. CORNE:** Yes, I do. I am going to file it; it's right here.

**MR. CORRIN:** Did you say you were going to file the list?

**MRS. CORNE:** Yes, I will.

**MR. CORRIN:** I would be interested in seeing it, if the Clerk could help you out.

**MRS. CORNE:** I was going to ask permission to officially file this tomorrow, because it seems t there is a duplication somewhere and we wanted to go through it thoroughly to make that this wa going to be a problem. Should I submit it now, and take it back?

**MR. CHAIRMAN:** No, please check it over. . .

**MRS. CORNE:** Before I bring it. I will do that tomorrow then.

**MR. CORRIN:** The Minister of Housing admonishes that you better check it.

**MR. CHAIRMAN:** Mr. Pawley, do you have a question?

**MR. PAWLEY:** Yes. Mrs. Corne, again I don't quite agree with your statement on Page 6, impl that women have so little power in law making. I think there is potential for great power if it cc only be exercised by women. I think the problem is that it has not been properly exercised wi our democratic form of structure.

I was wondering, for instance, if you or any in your group had met with the candidates t were running for office last October in Charleswood and River Heights to ascertain their positi prior to the election, in respect to the family law legislation that had been passed by the N Democratic Party government in June of 1977.

**MRS. CORNE:** Our group hadn't formed at all at that point, so that didn't happen, but we l been talking about this at our meetings and we intend to do this during the next election and elections to follow, to make sure that we understand the position of the candidates in relatior women's issues.

**MR. PAWLEY:** Why would you not have been concerned sufficient prior to the last October elec to have met with your candidates in the two constituencies to make sure that the laws which l just been passed would be safeguarded, regardless of the outcome of that election?

**MRS. CORNE:** Well, I would have to speak personally, again, because I was involved in somet else. I'm sorry, I was involved in something else and this is relatively new to me. I have just cc to family law and equal rights for women very recently.

**MR. PAWLEY:** I see. Since October, have you or others in your group met with the two sit MLAs for the constituencies of Charleswood and River Heights and provided them with y views?

**MRS. CORNE:** We have met with the Premier, who is our representative in Charleswood. Yes, have.

**MR. PAWLEY:** And the Member for River Heights? Have you met with . . . ?

**MRS. CORNE:** Well, we were originally a Charleswood group. When we extended ourselves to R Heights, that was fairly recent. So we didn't have an opportunity to meet with Mr. Spivak.

**R. PAWLEY:** Now you have indicated that you do recognize the fact that you do have power. ıe problem is that possibly that power hasn't been sufficiently exercised in the past. You have ıdicated that you will exercise interest, come the next election. Do you intend at that time then ascertain from the candidates what their intentions are and will you be checking as to their past cord in respect to family law?

**RS. CORNE:** Well, yes, and we have also started moves towards the federal election in this spect. We're organizing now for that.

**R. PAWLEY:** Thank you.

**R. CHAIRMAN:** Mr. Mercier.

**R. MERCIER:** Mrs. Corne, let me, too, congratulate you on a well put together brief. To attempt respond to the question you raise with respect to the system of monitoring, if it's permissible, r. Chairman, I am presently arranging through my Deputy Minister to establish a method of reporting cases that develop over the next while on marital property reform legislation that has been troduced into most provinces. At least, certainly B.C. now, Alberta. There was a form of an nendment in Saskatchewan three or four years ago, and in Ontario and in some of the Maritime ovinces. So that at the present time it's in a very preliminary stage in many of those provinces. berta has not yet proclaimed their law. B.C. has passed their law. I'm not sure it's proclaimed. ıt we will, over the next short while, through the administration of each department, be attempting review the case law that does develop on the various pieces of legislation that have been passed, of which do contain judicial discretion.

**R. CHAIRMAN:** Any further questions to the delegate? Mr. Cherniack.

**R. CHERNIACK:** Might I invite Mrs. Corne to request the Attorney-General to elaborate a bit ı talking about the methods of analysis and how consistent and extensive will the studies be, and ıen will these results be made available to the public. It would be helpful if we knew and if Mrs. ɔrne and the people she represents had some idea not only that it will be monitored but how ıd whether or not the information will be made available.

**R. CHAIRMAN:** Mr. Mercier.

**R. MERCIER:** Frankly, Mr. Chairman, we haven't yet arrived at the point as to how that would ɔcur. Certainly, what we will be dealing with will be reported decisions, mainly of the courts, which e public material. The mechanism has not yet been established but there may be a process whereby ɔrmation could be accumulated on a quarterly basis or something like that. But it will be looked with a view to determining how effective the legislation is in each one of the provinces and how e principles are being interpreted and then we, as legislators and as government, will have to ɛtermine whether or not we feel any changes will be required, no matter what form the legislation passed by the committee and by the Legislature.

**R. CHAIRMAN:** Any further questions to the delegate? Mr. Pawley.

**R. PAWLEY:** I was just wondering, Mrs. Corne, if it would not be wise for you and other interested ɔups to do independent monitoring over the next year or two, rather than to depend upon the ɔvernment's monitoring.

**RS. CORNE:** There was discussion as to this.

**R. CHAIRMAN:** No further questions? Thank you.

To the Members of the Committee, it has been pointed out to me by Mrs. Rosalyn Golfman, ıo is not the next person but the person thereafter, that she didn't think we would make the progress at we have made tonight and failed to bring her notes with her. So I suggested to her that we e sitting at 2:30 tomorrow and again tomorrow evening, and I asked her if she was available ıorrow afternoon and she said she would be. And there is one person before that, a Kay Harland. there any person present tonight who would like to make a presentation, who cannot be back her tomorrow afternoon or tomorrow evening?

Therefore, I would accept a motion that Committee rise until 2:30 tomorrow.

THE FOLLOWING BRIEF WAS SUBMITTED BUT NOT READ:

We, the members of the National Farmers Union Local 520, being farmers in the Swan Ri Valley, are presenting this brief to you in order that you may be fully aware of our conce regarding the Marital Property Act (Bill 38) and the Family Maintenance Act (Bill 39) which both now before the Law Ammendments Committee of the Manitoba Legislature.

REGARDING THE MARITAL PROPERTY ACT BILL 38: The bill now proposes that the sha of both family and commercial assets be deferred until the time of marriage breakup. Thi most unsatisfactory. No man is left with this type of economic insecurity. The wife's econo security would rest on the love of her husband and judicial discretion. This judicial discre even in the recent past has not dealt with the wife as an equal economic partner in marri The marriage where love and respect and generosity prevails has no need of legislation to pro it. It is the one which is in difficulty which needs justice and protection. This legislation g neither. Section 13(j) virtually gives total judicial discretion in division of both family commercial assets. No man in his right mind would risk his economic security to judi discretion if past performance is any indication of the fairness and unbiased way in whic will be applied. Neither shoud farm wives.

The recognition of equal sharing of assets during marriage is of extreme importance. M a spouse has been left at the mercy economically of a senile or paranoid partner, who thro infirmity or personality change has turned against them. As the law is now proposed, suc spouse has no economic security unless they please their mate, which would be virtu impossible under these circumstances. No one should be made to be dependent on the w of any other human being, senile or otherwise. If marriage is to be a workable partnershi must ensure an equal economic return for each partner throughout marriage. Love should be the only economic security that a wife receives at the altar.

Is it any wonder that intelligent, educated young women are reluctant to enter into traditi marriage and family life after having had access to independant income? Common relationships are increasing rapidly and the divorce rate in Canada is increasing at an alarm rate. It has been said that economic equality of husband and wife during marriage would l to marriage breakdown, because of interference of the wife in the business affairs. We beli that to deny intelligent women economic equality and a share in the planning for their secu within marriage is a major cause of family breakdown. For women to want to marry there n be a guarantee of justice within that marriage.

REGARDING THE FAMILY MAINTENANCE ACT BILL 39: Section 2(2) returns the fault conc in allotting maintenance on the grounds that if conduct is so unconscionable as to consti an obvious and gross repudiation of the marriage relationship then there is a lesser obliga on the other spouse to share equally the economic value of the marriage assets. Tradition women subjugate their economic opportunities for the good of the marriage and fa relationship. They have followed where their husband's job has taken them, taking a lesser pa job, if at all, in order to further their husband's career demands. They have traditionally ta time out for the raising of their children and have lost out on promotion and job securit they choose to take on the role of homemaker. If they do work outside the home it is very o on a part-time basis which usually carries little advancement or job security. Even that w she does to assist her husband economically in his business is not recognized by the Fed Government either for income tax purposes or for Canada Pension Plan.

It is our contention then that even if one spouse is grossly at fault, which is often diffi to determine, their financial interest in marriage is still valid. What partnership at the tim dissolution takes into account which partner was responsible for the breakup of the partner in assessing division of the assets? The economic losses suffered by women in marriage h for too long gone unrecognized. The concept of a readjustment period or retraining period either spouse, regardless of fault, is the only logical solution.

In conclusion, then we urge the Law Amendments Committee of the Manitoba Legisla to support the National Farmers Union policy which advocates equal sharing during the marri of both the family and commercial assets, which have been acquired during the marriage. principle of no-fault maintenance should be recognized in cases of marriage breakdown. \ limited judicial discretion should be allowed with regards to the equal sharing of assets b during the marriage or upon marriage breakdown.

All of which is respectively submitted by the National Farmers Union, Local 520.

Ted Wilson, President.

Mrs. C.H. Westaway, Secretary.