

TIME: 8:00 p.m.

OPENING PRAYER by Mr. Speaker.

**MR. SPEAKER, Honourable Peter Fox (Kildonan):** Presenting Petitions; Reading and Receiving Petitions; Presenting Reports by Standing and Special Committees; Ministerial Statements and Tabling of Reports; Notices of Motion; Introduction of Bills.

### ORAL QUESTIONS

**MR. SPEAKER:** The Honourable Member for Assiniboia.

**MR. STEVE PATRICK:** Mr. Speaker, I wish to direct a question to the Minister of Labour in respect to the proposed legislation of The Retail Business Holiday Closing Act. Should it receive Royal Assent, say tomorrow or sometime tonight, will the Minister give some consideration not to prosecuting any of the businesses that stay open this coming Sunday because I don't believe there is sufficient time for them to know that this legislation will be in effect.

**MR. SPEAKER:** The Honourable Minister of Labour.

**HONOURABLE RUSSELL PAULLEY (Transcona):** Mr. Speaker, the Honourable Member for Assiniboia raises a very valid point. I realize, as I am sure that he does, if His Honour happens to give Royal Assent this evening to Bill 18, it is in effect in law. However, I am sure that the law enforcing agencies would take into consideration the closeness of the time between the Royal Assent and the prohibitions on Sunday closing. In their judgment, I would suggest that there would not be any desire to prejudice against a store and the owners or occupants thereof, prejudice against them due to the closeness of the time. Of course, Mr. Speaker, I could not — and I am sure the Attorney-General would agree with me — I could not say to them, "Don't you take any action at all," because it is a law but I am sure discretion would be used. I am sure that all will appreciate that the stores that will be affected have advertised that they would be open this Sunday but woe betide them if they are open next Sunday.

**MR. PATRICK:** Mr. Speaker, a supplementary. I am sure the Minister is aware that many of the stores that stayed open on Sundays perhaps will be staying open this Sunday in which this legislation will affect them. I know in my constituency there are several. I just hope that at least there would have been a week's time or something of notice that some consideration would be given in respect to having these places prosecuted.

**MR. PAULLEY:** Mr. Speaker, I do believe that I answered my honourable friend. The law is the law, and I cannot give instructions that the law should be violated but I would suggest that common sense would be used due to the closeness between Royal Assent — if indeed His Honour comes in here to give Royal Assent to this bill and other bills — that good judgment would be used.

**MR. PATRICK:** A supplementary. Perhaps I can direct this question to the Attorney-General. Can some tolerance be applied in this area or will he apply the harshness of the law if it comes into effect, affecting the people this Sunday?

**MR. SPEAKER:** The Honourable Attorney-General.

**HONOURABLE HOWARD PAWLEY (Selkirk):** Mr. Speaker, I think it would be only self-evident that we would use reasonable discretion insofar as tomorrow is concerned.

**MR. SPEAKER:** The Honourable Member for St. James.

**MR. GEORGE MINAKER:** Mr. Speaker, I would like to ask the Honourable Minister of Labour, on the same subject. What program has his department or the Attorney-General set up to advise stores what the definition of an employee will be because I know this was a question raised during discussion — who would qualify as an employee and who would not, particularly in the area where you have stores that might employ five people and might stay open and not realize they would be breaking the law based on a definition of an employee.

**MR. SPEAKER:** The Honourable Minister of Labour.

**MR. PAULLEY:** I am sure, Mr. Speaker, that the honourable member and any other member of the community or the province has become amply aware of the provisions of the law and that particular question has been answered on a number of occasions and if they haven't been, then I would suggest to those that still are not sure, if they get in touch with either the Department of Labour or the Attorney-General's Department in particular, that definition will be forthcoming.

**MR. SPEAKER:** The Honourable Member for Fort Garry.

**MR. L. R. (Bud) SHERMAN:** Thank you, Mr. Speaker, to the Minister of Labour. Can the Minister indicate what a precise definition of the phrase "three employees at all times" means. We have never had a definition of that.

**MR. PAULLEY:** Mr. Speaker, that question has been raised on a number of occasions. I am sure that all are aware of the intent of the law. It can be that on a payroll, there could conceivably be more than three on the payroll of any particular store. The legislation, I think, is amply clear that it refers to

three employees working on a particular Saturday or Sunday. I don't think there is any question or doubt about the intent of the law as far as that is concerned. But when we're dealing with a payroll that might have half a dozen or more, that will not affect the provision, as I understand it in the Act, for three employees or less on a particular day that is referred to in the Act.

**MR. SPEAKER:** The Honourable Member for Rhineland.

**MR. ARNOLD BROWN:** Thank you, Mr. Speaker. My question is to the Minister of Health and Social Development. It is my understanding that the maximum allowance for a blind person is \$1,500.00. I wonder if the Minister would discuss this situation when he meets with his federal counterpart and review this allowance which has not been changed for quite some time.

**MR. SPEAKER:** The Honourable Minister of Health.

**HONOURABLE LAURENT L. DESJARDINS (St. Boniface):** Well, Mr. Speaker, I will certainly look into it but I won't be the only one that will decide on what the agenda will be at that meeting.

**MR. SPEAKER:** The Honourable Member for River Heights.

**MR. SIDNEY SPIVAK:** Mr. Speaker, to the Attorney-General. I believe he indicated that he will be tabling the . . . Oh, I'm sorry. He did. That's fine. Thank you.

**MR. SPEAR:** The Honourable Member for Fort Rouge.

**MR. LLOYD AXWORTHY:** Mr. Speaker, I have a question for the Minister of Health and Social Development. Reports are that the Manitoba Association of Registered Nurses are having serious problems in terms of reconciling their position. I want to know how that affects the advisory committee the Minister has set up to look into the issue of nursing education, if he can report on the progress of that particular committee.

**MR. SPEAKER:** The Honourable Minister of Health.

**MR. DESJARDINS:** The internal difficulties of any association will not have an iota of pressure put on that committee. That committee is representative; it is not acting just for any association or body and I can't report at this time because they haven't reported to me. I am sure that as soon as they are finished their work that a statement will be made.

**MR. AXWORTHY:** Well, Mr. Speaker, a supplementary. Can the Minister indicate whether the different groups that are involved in the MARN group are being represented on that committee, in fact, so that all the points of view are being represented?

**MR. DESJARDINS:** Mr. Speaker, offhand I don't remember how many from each association, but I want to remind the members of this House that this is an Advisory Committee. It wasn't meant to be representative as far as a number of members of any association and I think it represents all the people that could advise me on this subject. There are a number of nurses, as well as other people representing the nurses, the LPNs, and so on.

**MR. AXWORTHY:** Well, Mr. Speaker, I'd like to ask the Minister if through the efforts of that committee or through his own department, if any decisions will be taken that will affect the academic year beginning next fall, for nurses training in the province?

**MR. DESJARDINS I doubt it very much, Mr. Speaker.**

**MR. SPEAKER:** The Honourable Member for Portage la Prairie.

**MR. GORDON E. JOHNSTON:** Mr. Speaker, I address this question to the Honourable Minister responsible for water control in the province. Can the Minister advise on the status of Lake Manitoba. Is the Fairford Dam open? I've had two calls today with respect to the higher than usual water level on Lake Manitoba.

**MR. SPEAKER:** The Honourable Minister of Mines.

**HONOURABLE SIDNEY GREEN (Inkster):** Mr. Speaker, the level at Lake Manitoba is at the highest level that it is supposed to go to — slightly beyond — and instructions were given earlier this week, to my knowledge, that there be no control so that the water would be released so that the level would not go any higher. So the dam is operating in accordance with instructions to release water at the point that it's now at.

**MR. G. JOHNSTON:** I thank the Minister for that answer. Could he advise the House with respect to Lake Winnipeg, are any controls in operation yet, or are they still storing water?

**MR. GREEN:** Well, Mr. Speaker, the controls involve either storing water or releasing it. So I couldn't tell you at the moment whether it's being stored or released but I suspect it would be stored, because the level is higher than it would be under normal conditions. So water is being stored.

### **BILL (NO. 56) — THE FARM LANDS PROTECTION ACT**

**MR. SPEAKER:** The Honourable House Leader.

**MR. GREEN:** Yes, Mr. Speaker, could we proceed to Bill No. 56, please?

**MR. SPEAKER:** The Honourable Leader of the Opposition.

**MR. STERLING LYON (Souris-Killarney):** Mr. Speaker, I am in that happy position to be able to announce, I'm sure, to loud huzzahs on the other side of the House, that blessedly I will conclude my remarks very shortly. I say blessedly because obviously they do not find too much favour on the other side of the House; they are striking home because of the hard facts, not so much of what I say but

**Friday, June 17, 1977**

because of what they know in their consciences to be the case in Manitoba.

Now, Mr. Speaker, when we adjourned I thought it was the Honourable the Minister of Health . . . He tells me afterwards it was the Minister of Municipal Affairs who was talking about how the opposition will vote.

**MR. SPEAKER:** The Honourable Minister.

**MR. DESJARDINS:** Mr. Speaker, on a point of privilege. All I stated was that it wasn't me; I didn't squeal on anybody else.

**MR. LYON:** Well, he said it was some other un-named person behind him and, as the Honourable the Minister well knows, how the opposition votes on this matter is of no particular account because we know as we stand here now that the bill is going to pass. We know as well that that bill . . . — (Interjection)—

I hear a voice from the Ste. Rose wilderness saying something that I can't quite hear. — (Interjection)— We'll be happy to.

Mr. Speaker, one thing I do want to say in all seriousness to the members of this House, and even beyond to the people of Manitoba, that we do support — as I have said before at the outset of my remarks — the concept of putting restrictions now on foreign non-resident corporations and individuals buying farm land in Manitoba. And to the extent that the bill contains that provision as it does, we support it.

But we give notice now, Mr. Speaker, that upon a change of government in this province we will take steps to cut back the extension of that principle that my honourable friends opposite have imported into the bill, namely to restrict — e think unduly — t the rights of fellow Canadians and Manitobans to buy farm land which has been their unalienable right in this province for the last 107 years.

So we have no problem, Mr. Speaker, in standing up in support of a bill that we think goes too far because we support the one principle of it, as we did at second reading.

We give notice as well, Mr. Speaker, that there will be other amendments made to the bill when the government changes. Namely, to modify the penalties sections which are out of order at the present time; to clean up the administrative practices that are set forth in that bill which are not in accordance with proper legislative practise and; re not needed at the present time and generally to make it a more workman-like piece of legislation, which could have been done had the Minister been willing to listen to reason and common sense in the course of the hearings from the public and some of the suggestions that were made by the opposition.

Allbeit — to repeat — he did accept some of the recommendations. I believe I might have said before "for which I thank him." I was in error; I don't thank him at all. I suggest that we acknowledge the fact that some changes were made which are good, in the public interest. But we think many more changes can be made and they will be made in this particular piece of legislation.

Mr. Speaker, I conclude by reminding my honourable friends opposite that all of these pieces of legislation that we are passing affect people. There are tens of thousands of people in Manitoba who have no familiarity whatsoever with the operations of this House, with the operations of the administration of the Province of Manitoba, yet we stand here tonight prepared to pass a bill which is going to interfere, unduly, in the rights of people in a way that they have no reason to apprehend at the present time. And unfortunately we do this in the interests of providing some general protection for the ownership of farm land in Manitoba among Canadian people. But we carry the principle too far, as I've said before, when we intrude beyond what is needed to meet the general requirements of the public interest at this time.

Many, many people, tens of thousands of people that I have spoken of before, Mr. Speaker, merely want the right in this province to carry on their own affairs, their own businesses, to lead their own family lives with a minimum of intrusion from government. They expect certain services from government. They expect the basic protections of law and order, and health and welfare, and education, and a good highway system, and so on. But they feel very, very strongly, Mr. Speaker, that the government has no place in a determination as to how they order their own personal affairs with respect to whether they may incorporate themselves, or not incorporate themselves; or as the Farm Bureau pointed out the other night, that a disadvantage or a roadblock is placed in their way under this particular piece of legislation in that it works prejudicially against the normal desire of some farmers to order their affairs in a corporate way in order to take advantage of The Income Tax Act Canada.

So realizing all of this, Mr. Speaker, I say most sincerely that we're prepared to go along with the bill insofar as it restricts the rights of foreign individuals or corporations. We think the bill has gone too far in restricting those rights with respect to other Canadians. Nothing we can say or do at this time is going to halt my honourable friends opposite from pushing the legislation through. But there is a ray of hope at the end of the line for citizens who share our view, and that is that we give the undertaking to cut this legislation back to the point where it is needed at the present time.

If, as the Farm Bureau quite correctly pointed out — and as my honourable friends would certainly

want and as we would want — if we were to find down the line that there was an influx of out-of-province buying that was in any way prejudicial to land ownership in Manitoba, then I think this Legislature, under whatever government, would be prepared to react to it. But that is not the situation as we find it in Manitoba today, and that is why we say the bill goes too far.

So I thank the honourable members, Mr. Speaker, for their courtesy in listening to my few remarks, most of which have been stated before on this particular bill. We look forward to the time when the defects, as we apprehend them in the bill, can be cured in the public interest.

**MR. SPEAKER:** The Honourable Member for Assiniboia. **MR. PATRICK:** Mr. Speaker, I just have a few comments to make on this bill and I will be very brief. I rise to support the principle of the bill with some caveats to that. I know that the Member for Portage la Prairie some four years ago had expressed concern and brought in a resolution to this House concerning this problem of foreign ownership of Manitoba farm lands and recreation lands and my advice to the Minister of Agriculture at this time is that he has a tendency to get himself into trouble and perhaps as far as this legislation is concerned, I do believe that he has gone too far.

I know that as far as the beef marketing board was concerned, the Minister had some difficulties as far as the farmers were concerned in this area and as far as the land and the foreign ownership of land. I see the Member for Ste. Rose has a contribution to make and I hope that he will make his contribution. But I would like to say to the Minister of Agriculture that the principal reason that some of the other jurisdictions have brought this legislation in, be it Alberta, Saskatchewan, Minnesota or North Dakota — the reason they brought the legislation in is not because of speculation of people in their own provinces or states in land but they brought the legislation in because of foreign European, primarily European buyers buying the land. In this instance, Mr. Speaker, the reason the legislation is before us is because there has been a considerable amount of land purchased by European buyers and that's why the legislation is before us. We accept the principle because the other jurisdictions have brought in similar legislation, be it in Alberta, North Dakota or Minnesota and that was the principal reason why they brought their legislation forward. But in the Province of Manitoba, Mr. Speaker, I don't believe that citizens of Manitoba or Canadian citizens have been speculating in land transactions of farm land because, really, the return on the farm land is not there. They couldn't get a return and many of the European people that are bringing their money in, they are trying to put their money in a safe place. So my suggestion to the Minister of Agriculture was that there was no need to include or preclude the Canadian citizens or the Manitoba citizens from not being able to buy as much land, even though they were not farmers, as they wished because the problem was not there. They were not speculating, they were not buying the land because the investment, the return on the money is not there. So there was no need.

My recommendation was — the principle of the bill is fine in respect to foreign ownership, to foreign speculation or foreign investment. In, say two or three years or five years from now, if we would have seen the concern and the problem with local people, people of Manitoba, citizens who are living in the City and have no interest in farming, speculating in land or purchasing land, then I would say the bill could have been amended and the Minister of Agriculture would have all kinds of reasons, very supportive reasons, to say really we need this because it is the local people, the people of the cities who are speculating in land, investing in land and they are not primarily farmers. So I could have seen the reason for it. But to the present time, the local people are not investing in farm land, the corporations, the citizens of the cities or urban centres are not investing in farm land. It was strictly . . . the legislation was designed primarily to European buyers and, for this reason, that's the only caveat I put to the Minister and I don't see that it was necessary to go as far as he has done.

So, Mr. Speaker, as far as the principle of the bill, I accept and my party accepts, but as far as the provision that it applies to all Canadian citizens, I believe that it wasn't necessary to go that far. Perhaps the Minister could have waited for several years and if it would have been a problem, then perhaps the bill could have been amended. But to the present stage, no Canadian citizens were speculating or investing strictly for investment reasons because the return was not there. So, for that reason, the legislation appears to some people very repugnant and for that reason I would have hoped that the Minister would have gone the first stage and if it would have been necessary several years down the road, fine, he could have amended the bill. But in principle, Mr. Speaker, we have to support the bill as far as the foreign control and foreign investment is concerned in this province.

**MR. SPEAKER:** All those in favour of the motion, please say "Aye". Against, say "Nay." In my opinion, the Ayes have it. Declare the motion carried.

**HONOURABLE SAMUEL USKIW, Minister of Agriculture (Lac du Bonnet):** Ayes and Nays, Mr. Speaker.

**MR. SPEAKER:** Call in the Members.

**A STANDING VOTE was taken the result being as follows:**

**YEAS:** Messrs. Adam, Axworthy, Banman, Barrow, Bilton, Blake, Bostrom, Boyce, Brown, Burtniak, Chermiack, Craik, Derewianchuk, Desjardins, Dillen, Doern, Einarson, Evans,

**Friday, June 17, 1977**

Ferguson, Gottfried, Green, Hanuschak, Henderson, Jenkins, Johansson, G. Johnston, F. Johnston, Jorgenson, Lyon, McGill, McGregor, McKenzie, Malinowski, Miller, Minaker, Osland, Patrick, Paulley, Pawley, Petursson, Schreyer, Shafransky, Sherman, Spivak, Steen, Toupin, Turnbull, Uskiw, Walding, Wilson.

**NAYS: il.**

**MR. CLERK:** Yeas 50; Nays 0.

**MR. SPEAKER:** In my opinion, the Ayes have it and I declare the motion carried.

**BILL (NO. 61) — THE MARITAL PROPERTY ACT**

**MR. SPEAKER:** The Honourable House Leader.

**MR. GREEN:** Bill No. 61, Mr. Speaker.

**MR. SPEAKER:** On the proposed motion of the Honourable Attorney-General, the Honourable Member for Fort Garry.

**MR. SHERMAN:** Mr. Speaker, I sincerely feel, Sir, that in addressing myself to Bill 61 at this stage of the process for that proposed statute, that I am addressing myself to one of the most important proposals to come before this Legislature in the period of time in which it has been my privilege to be a member of this House. I want to say, before saying anything else, Sir, that I believe a special word of recognition should be placed on the record in acknowledging the work done by the Chairman of the Committee, the distinguished work done by the Chairman of the Committee on Statutory Orders and Regulations dealing with the family law legislation, the Honourable Member for St. Vital. I consider it a privilege to have served on that committee, to have served under that Chairman and I want to recognize the fairness and the impartiality with which he adjudicated what turned out to be, Sir, some very important and at times very controversial disputations. I also want to recognize the contributions of all members of the committee from all parties in the House. I think it was an experience in parliamentary exercise at its best for all of us, it certainly was for me, because of the objective and non-partisan approach and the sincere approach that was taken to the subject before us by all members of the committee led by the Attorney-General.

Sir, I find myself at a point where I have to repeat for a moment or two the position that the Conservative Party has taken on the proposed legislation and has expressed before in this House and in committee. With your leave and indulgence, Sir, and that of the House, I would just like to restate that position, and that is that we subscribe to the objective and the principle that has been put forward by the government in Bill 61, in that it is important, extremely important that Manitobans, legislatively and otherwise, recognize the concept and the principle of the equality of partners in a marriage, the equal sharing in rights in a marriage. I want to emphasize that, Sir, because my party is committed to that principle. What we have had difficulty with all along is the manner in which the principle is intended by this government to be invoked and to be introduced into our society in a legislative package, or a package of legislation that creates enormous difficulties for many of us — at least those of us in the Conservative Party — in terms of the questions that it raises, the potential difficulties that it raises, and the ramifications and implications it has for not one, not two, not three, but every family, every man, woman and child in the Province of Manitoba.

Sir, we started out with proposed legislation that was totally unacceptable, and I think that the fact of its unacceptability has been amply demonstrated by Committee hearings and Committee studies that have been undertaken and reached a conclusion during the past few weeks and months. The fact of the matter, Sir, is that we have now got before us in Bill 61, a piece of proposed legislation that is a vast improvement over the original concept introduced before the Statutory Regulations and Orders Committee last November, in concept, in discussion form, and over the bill as it was originally proposed to the House in the early part of May. I think that the contributions of all those who appeared before the Committee, all delegations and representations appearing before the Committee, must be recognized and legitimately acknowledged in that respect, and I think that all members of the Committee can take at least some small satisfaction in having contributed to improvement in that legislation. There is no question, Sir, that it is improved legislation, that it represents a vast improvement over what has been before us.

The problem for us, Sir, is that although we do not expect either from honourable members opposite or from any government in office in this province necessarily perfect legislation, we would like to have legislation contain as few imperfections as is reasonably possible. Our position has been that this legislation can be made less imperfect, if not more perfect, by the kind of application and continuing conscientious study and examination that has been afforded it in recent weeks in this House. We recognize the inequities and the injustices that have existed for many spouses, not only female but male, in this province over past decades. We recognize the need for eliminating those inequities as expeditiously as possible. We also suggest, Sir, that it is not unreasonable to adopt the position that although inequities have been with us for a considerable period of time, it is irresponsible at best for a legislative body and for an opposition to rush to embrace legislation that appears to remove those inequities while containing potential inequities of its own at the same time.

Friday, June 17, 1977

We insist, Sir, that our position is valid and legitimate when we say that since there are those inequities and since those inequities must be attacked and removed, let us do that properly, let us do it right, and if it takes us two more months or three more months to do it, then so be it. We will end up with better legislation than that with which we have been confronted. That remains our position, Sir. We made it clear on second reading that we support the principle of this bill. Our difficulty is with the trappings of the legislative package in which the principle is wrapped.

I go back to the position we took and expressed at the opening of Committee examination of the bill on a clause by clause basis earlier this week when we proposed an amendment to The Married Womens Property Act which we felt would provide the necessary justice, the necessary equity, the necessary enshrinement of the concept of marriage as an equal relationship and do the job that needed to be done, at least for the time being, while further consideration was given to the kind of extensive upheaval, to the kind of extensive ramifications for Manitobans and their society embodied and implicit in Bill 61. That proposition, as you will recall, Sir, was for an amendment to The Married Womens Property Act that would ensure, that would guarantee, that would codify that at any time during a marriage, any marriage, that after the parties have separated, resulting from any order of a court or any agreement either oral or in writing between them, or at any time such as was embraced by the fact that the parties have been living separate and apart for not less than six months, either the husband or the wife could apply in a summary way to a judge for a declaration as to the title to or possession of any property. And on that kind of application it would be presumed, Sir, that unless the contrary could be shown, that all assets acquired during the marriage, and any accretion or appreciation in their value to the date of the separation, were acquired by the joint and the equal efforts of the parties. In considering the respective contributions of those parties, Sir, we said that all contributions to the marriage should be taken into account, not monetary, not domestic, not specifically one or the other, or any that I haven't mentioned, but all contributions by either party to the marriage should be taken into account. We believe, Sir, that we were justified in putting that position forward, and I believe that we're justified in reiterating that position to this House tonight. We still believe that that is the way to approach the requirement for the advancement in attitudes, legislative and social, towards marriage in this province today. We still believe that that is the way, it's a clean and efficient way that does not involve government intervention or intrusion in the affairs of individuals, it does not involve an increase in regulation by authority over individual lives, it simply approaches the problem that when a marriage has reached the breakdown point, there shall be, unless it can be demonstrated otherwise, a presumption that contributions were equal and that assets should therefore be equally shared.

What we have in front of us here is a legislation that deals with marriage from the very moment that two people become married. In fact, it deals implicitly with the very conception and the very consideration of marriage itself, and that is the aspect of the legislation and the government's position that we find so difficult to accept, Sir. It seems to us to be an extension of a tendency on the part of this government reflected in so much of their legislation over the past eight years, to intrude in the personal lives and the personal decisions of individuals, even up to the point of the most intimate personal relationship that exists between human beings.

Sir, there are defects remaining in the legislation before us, fewer defects than existed before, and I concede that and I want to do more than concede that. I want to recognize the fact that the defects in the legislation as we saw them have been substantially reduced. There always will be some defects. I am not asking for perfection and my party is not asking for perfection. But, Sir, the impact of this legislation on the affairs of so many couples and so many individuals in Manitoba, wives, husbands and children, now and into the future, is immeasurable. And I think that when we're approaching legislation dealing with that kind of a field, that it is always wise and always prudent to make haste slowly. I am concerned that we have not made the kind of haste with the kind of constraints of care that are required in this kind of situation.

Sir, I must say that we still find it — repugnant would be too strong a term — but very difficult to accept that there is no transitional period provided in which individual persons, individual wives and husbands, would have the opportunity to decide for themselves how they want to live, rather than having a government — and I don't mean this government; I mean any government — change the rules on them in the middle of their marital game, impose new rules on them, and rules that impact upon the most personal of all relationships.

Sir, we reiterate our commitment to the principle. I in fact, Sir, am authorized by my caucus to advise you that I can give a commitment on behalf of my caucus that if the day comes, and hopefully it will, when the day comes that we may have the opportunity of forming the government in this province, we will implement in legislation the principle of equal partnership in marriage. But we will do it in a way that does not involve the kind of intrusion and the kind of interference in individual affairs we feel is unfortunately still, notwithstanding all the improvements, implicit in this legislation. As I have said, Sir, we consider it to have been a bad bill originally, much improved now, but still falling short of what could be called good legislation. The main reason we say this is because good

**Friday, June 17, 1977**

legislation in our view is light-handed, neither offensive nor intrusive, unless it is absolutely necessary that it be offensive and intrusive in the public weal. This legislation is both offensive and intrusive. It continues the trend to which I have referred which we deplore, of government control and regulation.

We are also concerned, Sir, that this legislation may make formal marriage as a way of life less attractive to people than we would otherwise hope and places unnecessary difficulties in their way. To that extent, we believe it will encourage common-law arrangements and undermine the formal institution of marriage. That, Sir, combined with the element of intrusion is a very serious drawback to this legislation in our view. We want to reinforce the primary right of the individual to determine his and her own affairs according to his and her own individual desire. We also want to reinforce the institution of formalized, solemnized marriage and, as a consequence of that, Sir, we find the bill rife with shortcomings. That being the case, Sir, and I appreciate the patience of the House in permitting me to put my position on this — that being the case, Sir, we revert to the original proposition to which we've held, that there is a better way of doing it. We have proposed it to this government and we submit to them once again the earnest proposition that they enact the kind of amendment to an existing statute that we have suggested as a means of enshrining that concept we all desire without trampling upon and trammeling into the individual affairs of marriages already in existence. That is the basic difference. Our amendment would deal with marriages at the point of breakdown. This proposed legislation deals with marriages not only at the point where they begin, but at the point, in fact, prior to where they begin, where they are being conceived and where they are being arranged. That, Sir, we think is unnecessary and for that reason I have to register serious reservations and unhappiness with Bill 61, notwithstanding my acknowledgement of the improvements made and before I am challenged by a member on the other side to demonstrate where I stand on the bill, I wish to say this, that I will obviously have to make that position clear before this evening is over.

**MR. SPEAKER:** The Honourable Member for Fort Rouge. Order please. ORDER. Order please.

**MR. AXWORTHY:** Mr. Speaker, the previous speaker in his opening remarks said that he felt that he had never addressed as important a piece of legislation as the Bill 61 that is before us this evening. I agree with that. But I think that the address is something that each individual must face as well. It's not a matter, in this case, of having party positions necessarily but one I think which each individual in this House has to face. It is a matter of the degree to which each member of this House feels that they are prepared to take a certain major step forward in developing a piece of social legislation that will affect, without question, every family relationship in this province.

Mr. Speaker, it's not easy to do. It's not an easy thing, I think, for legislators to take that kind of step. We become accustomed in this House to dealing oftentimes with the superficial. We become very glib about the easy things to deal with. We can say "Ay" and "Nay" in all kind of matters and know that it is simply a product of a certain degree of partisan posturing and that it will affect a few people here and there and it has certain import. But it's only when you get drawn into this process that you begin to understand that once we begin debating matters such as this, which I suppose only come along every decade or so — I have no way of historically recognizing it — that you're not dealing in the easy and the superficial. You're dealing with something that has an impact and a meaning far beyond the life of any legislator in this House. It will be something that will be a legacy that will remain for a long time to come and, therefore, one, as a legislator, has to treat it in a very different manner and, like the Member from Fort Garry, I want to say, Mr. Speaker, I appreciate the way in which this matter has been treated. I think that — I'm not a senior member of this House by any extent and I have a short term here so far, but I would say — (Interjection) — Well, whatever it does, Mr. Speaker, the fact is that it has been a rewarding experience to be involved in this process as a member of the committee and be involved in the deliberations of this legislation. I pay credit both to the Chairman of the committee and to the Minister responsible for the bill, for the way in which they have approached the conduct of its affairs. We have become too often embroiled in total adversary systems, where it's black or white, good or bad, Liberal and Conservative versus NDP or vice versa, you know, socialist versus free enterprise, all those clichés that we pass around with such free abandon in this House. It's not often that we have the opportunity to exercise our full abilities and intelligence as legislators on a piece of important statute as was before us. I think, Mr. Speaker, that I for one would say that the opportunity was afforded me and for which I am grateful. I think it is an important piece of legislation and I'm thankful for the opportunity to have played some part, however small or large, in being able to formulate an important piece of statute that will affect the lives of many people. And I hope, Mr. Speaker, that the work that we have conducted over the past weeks will bear some fruition. I don't, in any way, pretend that this is a perfect piece of legislation. I still have questions in my mind, questions I'm not sure whether I can divorce from my background as a male and as a product of my environment or ones that I raise because of those afforded me. But the fact of the matter is, Mr. Speaker, that the basic principle that we have all said that we so easily accept now has a very tangible meaning in terms of Bill 61 as so amended and it is the position of our party that we will support Bill 61 without equivocation at this stage.

Friday, June 17, 1977

We started out in this debate, Mr. Speaker, on one basic principle and that is that the importance of the equality of marriage must soon or later be recognized and it was high time in this country and in this province that it be recognized and I think that the status — there's a well known euphemism I think in the world of law, that progress in society has been measured by the movement from status to contract. I don't know much about the law, Mr. Speaker, but I think I understand the meaning of that phrase and the meaning is simply that, at certain period of times we free ourselves from the constraints of tradition that embroil us in a whole series of myths, mythologies, biases, and prejudices, and work out a basis where each individual can work out what serves his or her interest as they want to serve them on the basis of contract, on the basis of arrangement, on the basis of need and that is, to my mind, the major step we are taking in this law. That we are no longer relying upon the relationship between male and female as being one based upon status or tradition, but one which is based upon arrangement, based upon two equal people making an arrangement that would serve their individual and mutual interests in the best way that they can form. Therefore, we had to write a law that would serve that in the best way possible.

We considered, Mr. Speaker, not in any way lightly, this whole question of whether there was another way of doing it. As members of this House would know, our own leader appeared before the House and suggested recommendations, that there were ways in the courts of undertaking this measure in terms of the idea of constructive trust that there might have been a simpler or easier way of approaching this particular law. Other members of the public also approached the committee and recommended amendments to the Married Persons Act that would change it and apply for total discretion. But in our own mind we felt that we had to take several steps beyond that, that it was important to entrench certain basic rights in the legislation. That you couldn't rely exclusively upon discretion, that there had to be the entrenchment of certain rights and definitions of what those rights were and, therefore, we felt that it was important to have not only the instructions to a court to make judgments according to equality, but there also had to be a bill that established those rights and would define them so that the courts would be well instructed when and if they had to act. And, Mr. Speaker, further than that, we felt that it was not only important to allow the courts to have this — and I know the Minister of Mines and Resources will probably smile — but that it is also important for individuals to work out the arrangements without recourse to the courts. It was important that we establish a piece of legislation in this province that would set standards for individuals to work out their individual relationships without always having to appear before the courts to do it.

Now, on that basis, Mr. Speaker, we accept the notion of the sharing of community property. We think that that was an important step to take and we think that it is one that should be entrenched in the law and, beyond that' the idea of deferred sharing was one that, again, had to be based upon an individual working-out between people and that that should be the basic mechanism. Not always recourse to the court, but a basic mechanism of individuals in a marriage relationship working out their own arrangements, guided by the best intelligence that society, through its elected representatives, could provide and within that framework, people could establish their own arrangement. At the same time, Mr. Speaker, we felt that a total, automatic, arbitrary equal division could in certain circumstances result in some hardships, some inequities, many difficulties. And from the beginning of the debate on this bill in second reading, we indicated that our party felt that there should be a discretionary element introduced into the bill and particularly on the question of retroactivity ; discretion was necessary.

But even beyond that it was important that there be some allowance where it was not possible for two individuals in marriage to work out those arrangements between themselves, that they had to have some form, some adjudication upon which they could rely and so beginning in second reading we indicated that we felt very strongly that there should at least be the option and opportunity for discretion. Mr. Speaker, many people that appeared before the Committee felt similarly and it is, we can say with some satisfaction, that those elements of discretion have been introduced into the Act. There was disagreement on Committee as to the range and limit of those discretions, but we feel that at least it's a beginning, that there is a discretionary option that individuals can avail law themselves of and that a certain case and precedent will be built up before the courts through the common law to decide how it will operate. On that basis, Mr. Speaker, we are satisfied that there is sufficient flexibility in the Act to allow for those odd, unusual, extraordinary circumstances. As the Member from St. Johns and the Minister, the Attorney-General know, we argued long and hard as to what the meaning of extraordinary is, but I think that in this case we feel that there is sufficient guideline to encourage enough flexibility in the Act.

Now, Mr. Speaker, we also pondered in our own party, not just in our own caucus but in our own party, with people who are associated with us, the question of should it be delayed. Would there be much served by going back again, by re-examining, by restudying, by looking at it again? And frankly, Mr. Speaker, we came to the conclusion that the time had come to take the step forward, that there had been a long, arduous and important process going back two-and-a-half years. I think, Mr.



**Friday, June 17, 1977**

Speaker, there is a time — what is the saying? there is a certain time in events which is the right time. There is a certain moment which is the right moment and if you delay it too long, it becomes lost. You lose the opportunity to take that right step.

Mr. Speaker, we think this is the right time and, as a result, we're prepared to make that leap of faith — I think that was a statement made by Camus at some point, that in certain affairs of men, you have to take a leap of faith. We have no hesitation in saying there are many aspects of the bill that cause concern, cause perplexing at times and we're worried about it. We can see all the problems that will result in commercial relationships and the relations . . . women. There's one thing we do not agree with and that's with the statement of the Member from Fort Garry. We do not think it will in any way impair the status of marriage. In fact, Mr. Speaker, as members who have been involved in the Committee, I believe as many religious leaders who appeared before the Committee said, that it may in fact strengthen marriage. It may make marriage a much more serious business. It may mean people who now can very blithely and easily enter into matrimony without a moment's hesitation, it may make them require to take a pause, to take a moment's reflection to realize that what they're doing is not something for a temporary moment of satisfaction, a temporary moment of gratification. It is something that is going to be a long term commitment of two people, one to the other and that therefore they must establish very clearly the rules and the guidelines on which they're prepared to live. If this legislation requires them to take that moment of pause and reflection then, Mr. Speaker, it's good legislation. So we don't think that it will necessarily impair marriage. It will cause confusion in marriages. It will cause a lot of debate in marriages and a lot of discussion but we don't think it will impair it. In fact we probably think it will be worthwhile if a lot more marriages had a lot more discussion in them about the mutual rights of people within it.

Mr. Speaker, this province is not alone in debating this. We're not an isolated island. We can't treat this as if we are sort of moving in isolation. This is something that is happening right across the country. It's happening in every jurisdiction, whether it's Federal or Provincial, different legislators are having to come to grips with this issue. We might have come to grips with it differently if we had been in government, Mr. Speaker. I can't predict that, but I would say that from the beginnings of the introduction of this Bill, where we had serious reservations, we feel that the process that was undertaken, the kind of meaningful and rational discussion that ensued is the best that we could do as a Legislature. We could do no better. I think it is probably in its own way a certain hallmark and maybe in years gone by will be treated as a certain tribute to the members involved that as whatever the inadequacies of the bill may be, we did our best. We did not engage in that kind of partisan, adversary, antagonistic point making which is so much a part of everything else we do, that for a period of time, maybe for one brief, fleeting moment, in the life of this Legislature, we took time out to deal with things in a thoughtful rational way as the best we could. So on that basis, Mr. Speaker, our party is prepared to support the legislation.

We are also prepared, Mr. Speaker, to consider amendments and changes to it in the future as we see fit. But we think we should take the step forward and we're prepared at this stage to say that I think that we would hope that the people of Manitoba would bear with this Legislature and recognize this is an important step and that it is not simply something as legislators we are doing, we are going to require the full co-operation, understanding and commitment of the full population of this province to make this legislation work.

**MR. SPEAKER:** The Honourable Member for River Heights.

**MR. SPIVAK:** Mr. Speaker, I just have a few observations. I must say that I think it's very important that we understand that in dealing with this bill we are attempting to establish the marital rights between husband and wife, that there have been statements, almost to the point of becoming pious, as to what in fact we are going to accomplish within a marriage between individuals.

I think one has to accept the position, Mr. Speaker, that we in this bill are not going to be accomplishing that particular effect. There is nothing to suggest that we will keep marriages together. There is nothing to suggest that marriages will in fact deteriorate as a result of the bill. We know that there will be an impact. We know that this is an important piece of social legislation and its impact and its effect at this point can be speculated on but I doubt very much whether there is any supporting evidence that can be brought forward to assess at this time, a judgment as to what we are going to accomplish in that one area. And I think that's important. But I agree with the Member for Fort Rouge and the Member for Fort Garry that we are dealing with a very important piece of legislation, probably one of the most important pieces of legislation introduced by the New Democratic Party in its years as government. And we are faced, Mr. Speaker, in dealing with this bill with the fundamental problem that we face with respect to several of the bills which are before us tonight in terms of the final decision-making on third reading and the decisions for it or not.

Mr. Speaker, one can agree in principle with the bill. One can believe that in effect the intent is correct and have very serious concerns and objections and disagreements with with portions of the bill and with its application and with the proposals for specifics. And there can be and should be allowed and there must be understood that there can be an agreement in principle yet a

Friday, June 17, 1977

disagreement with some of the aspects of the bill which would impair the supporting of the position of the bill, that is the principle of the bill on third reading. And the process we have from the time of introduction to the publication of the bill to the introduction for second reading, to the public hearings in which there can be a response from the community to the line-by-line, clause-by-clause study that we proceed with, to the final disposition in this House, is to give us the opportunity to try and develop the position and appoint as to where one stands with respect to the bill. One can disagree in principle from the beginning. But one can agree in principle and then have serious concerns.

Now, Mr. Speaker, we have already seen on one occasion, and before I do this, Mr. Speaker, I want to make reference and only without breaching the rules, to the specifics of the last bill that we just passed. Mr. Speaker, there was a bill that there was agreement in, in principle. There is in my mind serious with the excessive fines that are levied with respect to the bill we just passed, to its retroactivity and to its application in the nature of the direct restriction for Canadian residents, not to be able to purchase farm land. Having said that, Mr. Speaker, the overall principle was sufficient for support. Now let me try and apply it to the present bill but to point out to the members opposite and to point out to the Member from Fort Rouge that although we deal with a piece of social legislation we do have some experience in recognizing that in dealing with legislation, experience afterwards will support some of the arguments that were advanced at the time of the legislation and in turn the experience of the years will in fact provide some of the answers to the questions that could not be answered during the discussion of the bill.

Mr. Speaker, several years ago we brought in Unicity into this legislature. We have just passed a bill which is more of a fundamental restructuring of what we did several years ago. And that, Mr. Speaker, comes directly as a result of the experience. That comes as a result of what has taken place after the legislation was put in force and the objections that were raised at the time by many, which were pooh-poohed by the government to the extent that they were sort of silly arguments, have proven to be correct. And some of the fundamental premises upon which that legislation was built, and upon which the ward system was developed, have in fact, Mr. Speaker, been ordered and changed as a result of experience.

The problem we have with respect to the present bill, notwithstanding the fact that there has been serious consideration over a period of time and a substantial input by the public with respect to the bill itself, both in terms of the hearings that have taken place before and those who deal in the field who have presented themselves to the committee. The problem we have is that there are still many issues, Mr. Speaker, that remain unsettled and notwithstanding the problems of dealing with the principle, one, in making their judgment is going to have to determine whether in fact the principle of the bill deserves support, notwithstanding the fact that there are serious concerns and problems that will arise in the future that may very well negate some of the effects. And, Mr. Speaker, there is going to be a substantial case law when this bill is passed. And my assumption is the bill will be passed, the government has a majority, the government will in fact pass this bill. That case law, Mr. Speaker, and I think the case law will be substantial, will I think fundamentally alter the bill and fundamentally alter some of the provisions unless new legislation will be introduced. Of necessity, there will have to be case law — everyone understands that — but I think by the very nature of the questions that have remained unanswered, questions that were posed to the government, I think one can predict a very active time for the legal profession, a very difficult time for the judges who are charged with the responsibility in connection with this Act, and a new opportunity for job formation for the people who want to enter the appraisal field in Manitoba. We do not have enough appraisers in this province and we are going to need hundreds and hundreds more to be able to deal with this bill.

One of the concerns that I have is that the bill itself has not dealt with the impact of federal tax law and the changes that are going to occur and the implications for married people when they deal with the effect of the bill in their particular situations.

One of the other features I think that one has to understand is that in all of the discussions within the committee, when the questions were asked as to what would happen, the answer was, "Well, that's for the court to decide." And the assumption is that law. But, Mr. Speaker, this the court will establish its case statute, I believe, has sufficient areas of opportunity for avoidance and for alteration and for circumvention that in effect much of what is expected to be accomplished will, in fact, not occur and the additional legislation that will have to be forthcoming will, in fact, be severe.

But then one has to come, in supporting or not supporting the bill, to the basic position as to whether the principle itself warrants support, notwithstanding all the inherent difficulties that one may believe exist within the bill, and that, Mr. Speaker, as I indicated is the fundamental problem with much of the legislation that we are going to be dealing with tonight and that we have had to deal with in the past. Those conclusions that will be made have to be made in all conscience recognizing that we are, in dealing with this, dealing with something that is, in fact, a progressive social measure, one which in its impact takes into consideration what most people, I think, believe the marriage arrangement to be but which, in effect, has not been the case as a result of the case law and the

legislation that has developed and the way in which our society has determined. Responsibilities have to be taken and the process itself that we develop in coming to that conclusion is one in which we have to accept our position at this moment in time in terms of our own legislation and our own society and whether, in fact, the intent of the bill in itself is sufficient to justify support notwithstanding its inadequacies. I suggest that they are there. I suggest, Mr. Speaker, that notwithstanding a major improvement to this bill, because this bill is not the same bill that was first introduced by the government — and that is very important — a major input that has taken place through the consultative process through our committee operation, notwithstanding that, there are tremendous unanswered questions and for those who are supportive, who believe that in fact the new era has come, I have to suggest to them that it has come only in a limited way. For those who are going to believe that there is now a degree of stability in the legislation that is going to be before them and that they are going to be able to deal with it, I have to suggest to you that that stability is not there, that in effect as the case law will be developed and as the lawyers deal with this legislation and with its inadequacies as I suggest they exist, there are going to be serious, serious problems and that in effect, what many people believe will occur will not take place.

I come back to the fundamental situation. This bill effects the marital regime. Whether it will be more successful or not in keeping marriages together or whether, as some have predicted, it will cause additional marriages to break up, is something that in dealing with the bill is not the fundamental issue because we cannot in any way determine that and that really is idle speculation. However, the government is taking this opportunity of introducing it. It would appear to me that there could have been and should have been more study — and I am going to deal with that just before I close — than what has taken place, more study on the bill. I recognize the process that has taken place but I also recognize, Mr. Speaker, that in the Consumer Protection Act, it was five years before the final fundamental bill that we now have before us was presented. I also recognize that notwithstanding all the public hearings and all the surveys and all the information that was gathered, a draft bill was presented and that draft bill was studied and it took a year before a new bill was presented and that new bill was very different from the draft bill. In that new bill, at the time of the public hearings, that was fundamentally altered and it is operating now with, I think, very good success and it is not a bill that has in fact required the kind of amendments that I suggest will be occurring in the future.

To those who have been responsible for the administrative process, and I think that this is one comment that I think there would be general agreement, to the Chairman and to the Minister involved and to the legislative counsel who had to deal with a committee that may have appeared to him to be difficult at times and not understanding of the kinds of pressures that he was put under, I think to all of them there has to be a congratulatory note of expression because I simply think that that process was an example of the best that can happen in our legislative process. But I am afraid that with respect to the bill, it is still not enough. And that is notwithstanding the intent or the merit of the principle which is contained within the bill. That, Mr. Speaker, is a fundamental problem that you face, as to whether you support it in principle notwithstanding its inadequacies or you reject it on the basis of those inadequacies because the simple fact is that it will not, in the main, accomplish what is intended.

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

**MR. SAUL CHERNIACK:** Thank you, Mr. Speaker. I have been listening to the last three speakers. I know how one of them is going to vote, I have yet to ascertain how the other two will. But that is part of the challenge and maybe it's even an invitation for us to try to persuade undeclared members as to how they would vote on this bill.

Mr. Speaker, there is a joke about a politician who, listening to another one, said, "I wish I had said that." And the response was, "You probably will." Well, if only for the time element, I will not repeat what the Member for Fort Rouge said but I wish that I had had the opportunity — and maybe the ability — to express as well as he did, the dramatic change that we are facing, the forward step as he described it and the fact that we are prepared, as legislators, to assume a tremendous responsibility to make a major and fundamental change in the law, the law which has existed for so many years, the law which we inherited and which, I believe, society has found unacceptable as a continuing concept.

Now we find that those members who have spoken and I think that includes the members who have not spoken who were members of the committee, now accept in principle that there is an entitlement of equal sharing in a marriage relationship. I guess that's great progress. I must say, with some regrets, that if one would have left it to the two speakers from the Conservative Party and the party they represent to make this kind of change, it would still be a long way off. That's clear to me and I think clear to others. I suppose, Mr. Speaker, I have a right to express — because I say it sincerely — the disappointment in hearing the Member for Fort Garry make the presentation he did today. I really did not expect his position to be the one he expressed today, because he, of all the members of his party who were on the two committees that studied this question, showed, I believe, the greatest interest and investment — that's not the correct word — involvement in the concerns expressed by

**Friday, June 17, 1977**

the Law Reform Commission, by the people who presented briefs and I thought had gone a long way towards agreeing that something had to be done. I am disappointed that it was he who was — well, I suppose I accept the fact that I had misread his intent on this bill in that I had expected that he would say what he did say about the inadequacy of the draftsmanship, the fact that he did not feel that it was sufficiently improved although vastly improved. I expected that. I did not expect him to talk about intrusion, about trampling on the rights of people; I did not expect him to speak in terms of dangers to the solemnity of the marriage contract because I did not believe that he believed that, until I heard him say it this evening. I am, therefore, forced to conclude that I suppose the very names of the political parties represented in this Chamber is indicative of the way they truly react and behave to social change.

Mr. Speaker, I just had an order from the Member for Riel, I believe, that I should speak for myself. I tell him that I have the pride, very often not only of speaking for myself but often for members of my party. I hope that he could have that pride as well.

Mr. Speaker, the Member for Fort Rouge spoke about the importance of the step we've taken, spoke about the fact that laws are not perfectly structured and especially a law such as this which makes fundamental changes, spoke about the fact that the law could not be considered perfect, and I agree with the Member for River Heights who said there will be a body of case law developed. There isn't the slightest doubt about it. There is so much that will be developed by the courts in terms of this concept that we may later find that what we think is a great fundamental change is not that great a change because, in the end, the courts, using their judgment, using their discretion, developing their concepts of what the words that are written and passed by us were meant to say, may themselves, as has been historically the case, vary, change the very approach that has been given to the words and to the law that we are passing. That is historically the case and I would say that legislatures of the future and society of the future cannot assume that passing this law today means that it is done. The committee itself raised certain points which the Attorney-General agreed have yet to be reviewed and studied and I would say that as the jurisprudence develops on this law, it will be studied not only in this province, not only by legislatures of the future in this province but elsewhere in order to see how the courts are interpreting the law and to see the extent to which they are reflecting society's expectations and that, in itself, will probably involve changes I don't have the slightest doubt, Mr. Speaker, that maybe year after year, there will be advances and changes and variations to the Act that will be passed today.

I think that it will be necessary to nurse and nurture the concept developed in these bills in order for us, in the future, to reflect what society believes is true and which every member who has spoken and I guess will speak, will agree is true. So maybe it is a question of degree. There is no doubt in my mind that the proposal — and Mr. Speaker, I must say that the proposal that was presented by Mr. Sherman to committee a few days ago reflects very much the recommendation made by one lawyer, a lawyer whose legal ability I respect, Mr. Houston, and who I believe thought that the law as it stood was pretty good and who said, as I recall it, the only thing that he thinks that may have gone somewhat astray, is the acceptance of the fact that the contribution to a marriage that is not financial could be great and equal to the financial contribution. He is the one who, I believe, recommended that there be a presumption of equal sharing but rebuttable. In effect, that is what is being proposed. I do believe one other lawyer, a young lawyer, Miss Halparin, supported him and I mention their names to indicate that I believe that they are the only two who took that position.

I believe that all of the other briefs that were presented, both by lawyers and otherwise, recognize the need for a fundamental change in the law felt that something important had to be done and I include in that the vast number of lawyers that appeared and I include in that Myrna Bowman who spoke not only on her own behalf but on behalf of the sub-committee, the Marital Law Subsection of the Manitoba Bar. Many of them, and I believe she herself said, this law should be passed; it has imperfections and she then detailed a number of valid points that had to be considered and I will deal with that as well.

Mr. Speaker, the Leader of the Liberal Party, Mr. Huband, appeared before the first committee with a very supportive brief for the recommendations of the Law Reform Commission. It was latterly that he came before the committee and suggested that there could be an approach which would be brief and which he thought could accomplish the objective. I do not think I am convinced that he did not disagree with the bill but he thought that he had a method by which much could be accomplished in that direction through the concept of an assumed or constructive trust and that was considered as well.

Mr. Speaker, I want for the record to just itemize the extent of study after which the concept and the points have been developed. I think the Member for River Heights mentioned some two and one-half years and he is quite right. I want to put it on the record that the Law Reform Commission produced a working paper dated January 1975, which was distributed, I believe far and wide and certainly to all members of the Legislature. They then developed a report of their own Commission wherein they listed the number of briefs and responses they had received to that working paper; I

**Friday, June 17, 1977**

counted them today and they numbered 72. And then they issued their report which is dated February 27, 1976. An Intersessional Committee of this Legislature was then established. It held 11 meetings, it received and considered 46 briefs. It made its report to this Legislature on March 21, 1977. It listed general acceptance and agreement with the recommendations. And Mr. Speaker, I stress "recommendations" of the Law Reform Commission. Let me cite it exactly from Page 91 of Votes and Proceedings No. 23, wherein I quote from that: "Accept as noted below, there was a general concurrence among Committee members where the Family Law recommendations of the Manitoba Law Reform Commission." Then there were 16 specific items where there was not unanimity. And the conclusion of the . . . but what I read obviously was the unanimous decision. The exceptions were, of course, not unanimous. Then the conclusion of the report is, and I read that: "The Committee recommends that the Attorney-General proceeds to submit a bill to the Legislature, dealing with the principles discussed in Committee, reserving and recognizing the right of each member to debate and/or propose amendments to any particular proposal or section in the bill."

But then, Mr. Speaker, the bills were drawn up. And the bill we are dealing with now was distributed to the Legislature on May 4th. It was moved by the Attorney-General on May 6th, it was debated on May 30th and then it was referred to the Committee on Statutory Regulations which held 18 meetings, Mr. Speaker, and heard 40 briefs. And let me for a moment mention one brief it didn't hear which I heard about through reading the newspaper, that of the Chamber of Commerce. The Chamber of Commerce had a brief dated June 8, 1977, which we received as I recall it, last Monday or Tuesday. Just a few days ago — well about a week — it was ; a week ago that this was dated we received it the beginning of this week. This brief was not brought to us, nor was there an attempt made for them to bring it to us, although a representative of the Chamber had his name on the list of speakers from the very beginning. I think he was there the first day; I think I saw him the first day but he certainly wasn't there much after that. And the brief was then given to the newspapers and only sent to us in an indirect way — I think it was given to the Clerk and he distributed it.

Mr. Speaker, the reason I mentioned that is that they make three specific statements and expressed three specific concerns, and I cannot give them credit for having helped to deal with those concerns because they did not express those concerns in sufficient time for us to deal with them. However, Mr. Speaker, a number of other people in presenting their briefs, touched on these various points, and now I want to mention, that having heard these 40 briefs that this last Committee heard, I assume that all the points raised were reviewed by the Conservative caucus. I know that they were reviewed by the caucus of the government. I know that they were considered by the Legislative Counsel charged with drafting and revising the bill. I know that four counsels sat around the table because I saw them sitting around the table, working and reviewing, item by item, all the recommendations. And I want to say now that the Manitoba Bar brief which had been given was given a great deal of attention and much of what they had suggested was included. As far as I am concerned, Mr. Speaker, all of the people who presented briefs at the Committee made a real contribution, and I believe, reinforced at least for me, my confidence in the legislative process which involves taking a bill outside of the House and hearing briefs and discussing them. And that isn't done everywhere in this parliamentary system that we share with other jurisdictions.

Mr. Speaker, I want to agree with honourable members who have already spoken that the Committees, both of them, met in an atmosphere of wishing to accomplish good, wishing to do well, wishing to carry out the recommendations, wishing to review the recommendations of the Law Reform Commission, and I thought until I guess today, that there was a real feeling and warmth towards many of the points raised. Now I have reason to doubt that that existed, if not amongst the members of the Committee, I am beginning to sense that that feeling did not exist amongst many of the members who are not on that Committee, but from the opposite side.

I want to stress the fact as mentioned by the Member for Fort Rouge and mentioned by the Member for Fort Garry, that there does not appear to me to be a great deal of posturing of a political nature, and I do not decry in any way when there is political position taken, debated, reviewed and resolved. But in this case, there was less of a feeling of a partisanship of a political nature, I believe, but more an opportunity to understand, to explore and to develop what would be good laws; and I think it was a good attitudes noted by Miss Arlene Billinkoff in today's Free Press, who devoted some number of columns praising the manner in which the people of the Committee on Statutory Regulations dealt with all of the issues before them.

Well, Mr. Speaker, we now have a bill before us, which sets out the principles first enunciated to the people of ANITOBA IN THE Law Reform Commission Report, varied to some extent, developed to some extent; we have a law which was developed to some extent from what it was when it was first presented. Mr. Speaker, I do not believe there's an unnecessary intrusion in the lives of people. Anybody who has practised in the courts of anitoba — and I am sure elsewhere — has seen tremendous intrusions in the lives of people in the courts under the laws that have existed up to now. And I believe that the laws as we have framed them today for today's consideration, will involve less of

Friday, June 17, 1977

an insensitive, even cruel nature in dealing with them, than the law that exists today. Because today the law involves fault; today the law involves the measurement of the value of every little item that takes place in a marriage; today the law permits an exhaustive, intensive, embarrassing, intrusive method by which people have their lives exposed, the raw nerves exposed in such a way that to try and heal a marriage after that type of review is impossible. Whereas under this law, we are saying there are certain principles to be accepted and nobody has quarreled with those principles. The Member for Fort Garry who spoke on behalf of the Conservative Party said he agrees with the principles and the party agrees with the principles and objectives.

Let me point out to him that the principles here involve not only an acceptance of the principle but also that there has to be some very extraordinary evidence to be produced in order to vary from that principle. And that to me makes a great fundamental change between the niggling, unfair, - embarrassing and distressing types of evidence that are presented often in cases today. I for one have seen a great deal of it in the courts. Now it will not be that way and I think that's part of this great step forward that we've talked about.

I am sorry that members feel that the bill is not yet ready to be accepted as law. I believe no one will call it perfect yet; enough people have called it workable to make me have faith that with the discretionary aspects in the bill itself — some of which I felt went a little too far, but nevertheless they are there — will make it so very unlikely that hardship will be done, that there will be intrusion because the courts will be there to protect the parties in accordance with the guidelines set out for them, and which they badly need and wanted. One of the people who presented the brief cited a judge — and I don't for the moment remember what court it was — where he said that he asked the legislators to pass a law so that there would be a guideline from which they could operate. There are very few restraints, I believe, on the opportunity for the courts to arrive at a fair disposition of the matters before them.

And therefore, Mr. Speaker, I would like to think that if the members opposite are bound not to vote in favour of the bill, that at least they will continue — at least some of them — to show a deep interest in the concept and in the particulars as they have shown in the last number of months in favour of this type of legislation, as they've shown in the last couple of days in helping to improve the legislation. I hope that they will continue to have a positive approach to it and not a negative one as I seem to have sensed from some of the members who are calling out from their seats, but which I did not sense from the members who spoke on behalf of the party. I therefore hope that regardless of how they vote — and I believe they are going to vote against the bill — that they will continue to have a positive approach and that those amongst them who are so negative on this issue, will not do that.

**MR. SPEAKER:** The Honourable Member for Portage la Prairie state his point of order.

**MR. GORDON E. JOHNSTON:** Well, my point of order is, Mr. Speaker, that the Member for St. Johns continually refers to members opposite as calling out against certain members who are speaking in favour of the bill. I want him to know that the Liberal Party is supporting this bill.

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

**MR. CHERNIACK:** Mr. Speaker, I thank the Member for Portage la Prairie. I apologize, absolutely. It was clear in my mind at all times that the members of the Liberal Party are supporting the bill, and I do apologize. I was in error in speaking of the members opposite as if they were all members of the Conservative Party. I recognize very clearly, and I know fully well that the members of the Liberal Party, although opposite, are not in the group of people about whom I have spoken, and I appreciate very much that he took advantage of the moment to correct me so that a statement that I have made should not be misinterpreted.

Mr. Speaker, I thought he was going to get up to say that I had spoken enough because the fact is, Mr. Speaker, I think I have. The hour is late and it will be much later today. I have to say that I share with the Member for Fort Rouge a feeling of great accomplishment. I share with members generally, a feeling of concern that the law that we are presenting today is not as perfectly drafted as it could be; I have yet to see a law that has been drafted as perfectly as it could be. I welcome the fact that the Member for Fort Garry says that there have been vast improvements in the bill, that the defects have been substantially reduced. While he was saying those things, I expected he was voting in favour of the bill. But then when he made an attack which to me was a complete surprise as coming from him, that I realized that I guess I had misread his approach to all of the problems. I said that I regret it but nevertheless, it is not the first time that I find that I am not in agreement with the members of the Conservative Party on some issues, and unfortunately, on this progressive forward step — and I use the words of the Member for Fort Rouge — I am sorry that again, members of this party, the members on this side, are far . . . I made another mistake, Mr. Speaker. I referred to the Member for Fort Rouge as the Member for Fort Garry, but I know the members present do know that I realize the difference between the two and recognize it. Thank you, Mr. Speaker.

**MR. SPEAKER:** The Honourable Member for Fort Garry.

**MR. SHERMAN:** I wonder if the Member for St. Johns would permit a question, Mr. Speaker. I wonder if the Member for St. Johns, whom I did not interrupt because he did not interrupt me, would

Friday, June 17, 1977.

concede that he is not entirely omniscient, ad that I said that I was speaking for my caucus and for the general position of my party which I have attempted to represent throughout the exercise with which we were concerned, and that I imagine . . .

**MR. SPEAKER:** Would he honourable member ask his question. The honourable member is not up to make a speech.

**MR. SHERMAN:** I am asking the question, Mr. Speaker, I imagined that my own position on the bill would be revealed during the course of the evening.

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

**MR. CHERNIACK:** Mr. Speaker, again I appreciate the interruption. I am now a little bit confused — obviously it will be clarified — but I do gather now that the Member for Fort Garry presented the position of his caucus, but he may yet, on the vote, be able to indicate his own position as being in some way different. That I recognize as possible. I welcome the possibility. At least I can hope that it will be evidence the way I've just interpreted it.

**MR. SPEAKER:** On the proposed motion of the Honourable Attorney-General. The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** Mr. Speaker, can I ask the Member for St. Johns another question? I believe he wants the record kept straight. When he said that the working paper of the Law Reform Commission was widely distributed, would he consider one copy to 23 members of the Conservative Party caucus as being widely distributed?

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

**MR. CHERNIACK:** Mr. Speaker, I am amazed to learn that there was only one copy for the entire party. I thought every member of the Legislature got it and Mr. Speaker, I can only answer the Member for Birtle-Russell by saying, "Thank God there are Xerox machines and that all members of the Legislature have the opportunity to make copies without charge to themselves so that they can each study for themselves what is presented to them."

**MR. SPEAKER:** The Honourable Attorney-General.

**MR. PAWLEY:** Mr. Speaker, I will attempt to be as brief as is possible because we have much more yet to accomplish this evening but I think I would be remiss if I did not express my appreciation to many who participated in the development and the growth of this legislation.

First, of course, credit must go to the members of the Law Reform Commission who worked over a lengthy period of time to develop the concepts which we are dealing with in this legislation. True enough, we did not accept all the recommendations of the Law Reform Commission but certainly much of the principle, much of the thrust of this legislation certainly was contained within that report.

Secondly, I think I would be remiss, Mr. Speaker, if I did not mention the fact that we had good input from the public. The Honourable Member for St. Johns read the reference to those who had submitted briefs to the Law Reform Commission; certainly to the legislative committee we also received many briefs and to the present committee many briefs from members of the public. And I think what should have struck us all is that insofar as the briefs that were received from the public — and here I want to deal with the legal people separately — there was overwhelming support not just for the legislation which we have before us but a feeling that we should attempt to even go beyond this legislation. I think we should recognize the fact that there was that indication given to us very strongly during the commission hearings from many different groups, whether it was the YWCA, whether it was from the Teachers' Society, from the Coalition on Family Law, or from the other groups which had been organized, the Status of Women group, and others.

That interest, I could not help but note, was followed up by regular involvement by individuals from the public who, I'm sure members must have noticed from time to time, sat through the meetings and watched carefully the proceedings. It's rare that we as legislators find that there are so many very committed people who will stick with the proceedings in the way that members of the public demonstrated that interest.

Then I think, Mr. Speaker, that a debt of gratitude must be offered to those from the legal profession. I believe that there were some nine or ten lawyers who presented briefs. And as the Honourable Member for St. Johns indicated, the majority of those members, although finding weaknesses within the legislation, generally indicated support for the bill and urged that this bill, with improvement, go forth to become the law of the land.

I wonder, Mr. Speaker, how much free legal advice this committee received during those hearings. I wonder what the estimate would be. Rare have we received such top-level, real good legal advice as we received during the submissions. So that we received the concept and the idea from the public and we received tremendous legal input from family law lawyers in the briefs to the committee.

In that way, I think, Mr. Speaker, we ended up with a marriage of itself. A marriage of as much of the idea and the concept as we could retain in this legislation with the essence of practicality introduced into that concept and idea through the law. It was a tremendous process that I think each and every one of us probably felt very strongly and Darlene Billinkoff is certainly correct when she indicates . . . I'd just like to read these words because I think we all felt the impact. In today's Free

Friday, June 17, 1977

Press: "in spite of the gathering election clouds, the representatives did not grasp for publicity through vicious verbal attacks or impatient impassioned defence of particular policy. There was too much involved with the bills which would undoubtedly influence the future of many Manitobans."

I think each and every one of us, regardless of our political stripe, felt that. We felt the responsibility very intensely, in connection with this legislation.

Mr. Speaker, I feel that the commitment of equal contribution to the marriage relationship is a fundamental one. The words "mutual", "joint", "equal" and "togetherness", that these are the themes and the principles which find their way throughout this legislation and I think that is what is most important.

Mr. Speaker, in a practical way I fear that to have accepted the Ken Houston proposal, referred to by the Member for Fort Garry, would have seriously impaired the concept of equal participation. I think, Mr. Speaker, that in so doing that we would have ended up with very little variation from the existing law, an approach which would have been quite simplistic and would not have recognized as equal the contribution by the spouse to the home, even though that spouse is not in the workplace contributing in a financial way. I do not have confidence in the proposal that was presented, commonly known as the Ken Houston proposal, to the committee, which the opposition have indicated support for.

Mr. Speaker, the problem with that approach would have been . . . —(Interjection)— Mr. Speaker, I would like to carry on if the Leader of the Opposition would allow me to. —(Interjection)—

**MR. SPEAKER:** Order please. The Honourable Attorney-General.

**MR. PAWLEY:** Mr. Speaker, I wasn't aware of anything that I said which should have brought about the reaction that apparently it did bring forth.

The problem, Mr. Speaker, is that I think we would have really misled the public if we had diluted this legislation in the way that it was proposed.

The Honourable Leader of the Opposition indicates that we're doing that now. No, Mr. Speaker, there was an agreement as a result of a great deal of consultation and discussion in committee that there were the very harsh, the very extraordinary cases which we ought to respond to. I am satisfied, insofar as the discretion that we have allowed, that we will provide the courts with reasonable opportunity to deal with those extraordinary, unconscionable and grossly unfair situations without providing such a wide area of discretion, that in fact it would have made the legislation next to being meaningful insofar as change.

There is one other area I'd like to mention because the Law Reform Commission and some lawyers presenting briefs emphasized their view that unilateral opting out would have been the preferable route to have taken. In fact, those who proposed the unilateral opting out during the first six months after the enactment of this legislation would, from that point on, have eliminated any discussion whatsoever. So that to some extent the Law Reform Commission, the Myrna Bowman approach, in the end result would have meant a more rigid 50-50 application than the legislation which we have before us.

I'm pleased, Mr. Speaker, that we did not accept that unilateral opting out provision because if there would have been any approach which I think would have created a stress within the family relationship it would have been an approach which would, by legal sanction, have encouraged an opting out by simply one partner to a marriage serving a notice on the other partner, and on that basis to have excluded themselves from the legal arrangement.

So that I'm glad that we were able to avoid that route and that we have retained the mutual opting out approach which will ensure that has been mutual working out, the mutual working out of any disagreement that there may be in the minds and the hearts of any married couples as to whether or not they would wish this legislation to be applicable to them. And I certainly suspect that there will be mutual opting out and parties are left with that right, that opportunity to opt out. This is not a law which is imposed upon Manitobans but they are given ample opportunity, if they so wish, to decide not to accept.

In conclusion, Mr. Speaker, I think that this law by its very nature rather than do, as was suggested by the Honourable Member for Fort Garry, impair the marriage relationship, would do the very opposite because it reflects true strength of marriage relationship — the equal participation, the joint, the mutual.

Mr. Speaker, I feel that any law which reflects that concept is bound to improve and to strengthen marriage within the Province of Manitoba, rather than to introduce the adverse factors suggested by the Honourable Member for Fort Garry.

So to that extent, Mr. Speaker, I think that it's an important move. I think it's a night that we can be proud of, to have opened the way in Manitoba to an important step forward in family law reform by the passage of this legislation.

**MR. SPEAKER:** The Honourable Member for Sturgeon Creek.

**MR. F. JOHNSTON:** Thank you, Mr. Speaker. Mr. Speaker, the Attorney-General just finished by saying that this is a night we can be proud of with the legislation that we have before us and I assure



**Friday, June 17, 1977**

you that he is right but we can all be very disgraced in this legislation that we have before us, in the manner that this government has handled this legislation, and in the manner that this government, or some of the honourable members, believe that they have the right to interfere in the family lives of the people of this province.

I don't recall, in my experience when campaigning in the last two elections, the NDP Government ever stating that they thought that they should legislate how a happily married couple should administrate their lives. I don't ever recall saying to the people in my constituency that I had the right to make that decision for them.

Mr. Speaker, when I said that this bill was improperly handled . . . I have listened tonight to the explanations of the Member from St. Johns and the Attorney-General on the basis of how long and hard we have worked. And this started back in 1975 as the gentlemen said, with the Law Reform Commission. I know how hard the committee has worked; I've been on it and I must say, Mr. Speaker, that all members of that committee are to be congratulated. It was a committee that we had a very great mutual understanding on. I would refer to the report of the Committee to the House on March 21st where we said we agreed with all sections of the Law Reform Commission, except except, except, and I think there was something like 18 or 19 exceptions, where we said we couldn't agree — pardon me, I think there was 21 we said we could not agree — and that we instructed the government or the legislators to write legislation for this Legislature to look at as far as changing family law in the Province of Manitoba.

Mr. Speaker, on May 6th, we got a bill, number one, 13 pages long, it went to Committee and we had some hearings on it. But you know, Mr. Speaker, before we even got to the Committee and we started to have the hearings of the people coming before us, they were coming before us saying, "I haven't seen the amendments," which was bill number two. Bill number two, without the forms, 21 pages long and 40 amendments to a bill that had 42 clauses in it. —(Interjection)— Yes, if you think that's good. After we had the hearings, Mr. Speaker, then we got bill number three. Bill number three is 22 pages long with 41 amendments. Bill number three, Mr. Speaker.

Let me tell you what the notes of the gentlemen who were writing this legislation were. This is a memo from Mr. Goodman, Assistant Deputy Minister, Legal, to the Minister, Howard Pawley, and this is public; it was distributed to all of us. "On Division 1" — now this is about bill number three, Mr. Speaker — "on Division 1, this Division which deals with the marital home was completely redrafted so as to avoid any conflict between The Marital Property Act and The Real Property Act." So it was completely redrafted. —(Interjections)— Mr. Speaker, I didn't say that I preferred they didn't redraft it but you mean to tell me . . . this is dated the 10th. This is the sixth of the 10th. Mr. Speaker, in Division No. 3, this Division which deals with family assets has been entirely recast. That was in number three. Mr. Speaker, today we got number four. There were major amendments made to this bill last night in Committee at as late as 11:00 o'clock at night. Mr. Speaker, this bill is not quite 24 hours old, not quite 24 hours old and a lot of it brand new.

Mr. Speaker, we had people come before our Committee who said, "Well, pass it; we'll change it later." I don't recall ever being elected to pass something that I know wasn't really correct. You try your best to know that what you are passing is correct, but Mr. Speaker, when you absolutely know and it has been brought before you that there has got to be a lot of amendments. . . . I get a kick out of the Member for St. Johns when he says, "There will probably be some major changes." The Member for St. Johns, last night around midnight when we were discussing the judicial discretion made the statement that this would be watched closely and as far as I'm concerned his inference was that if the judges were not looking at things on a 50-50 basis and they were not keeping it as tight as he thought it should be, it could come back next year and I assure you on that basis, Mr. Speaker, they would take any judicial discretion out. Because, Mr. Speaker, I never heard so much distrust to the judicial system in my life as I heard in that Committee. The Member for St. Johns while having discussions with Mr. Rich — and I'll show him the page as he asks me — referred to judges' biases and how we could probably overcome them. Mr. Speaker, it's very obvious that they don't believe that the judicial system should have anything to do with the Family Law in this province.

Mr. Speaker, I also add I heard a statement made during the committee hearings that if the amendment that was put forth or the suggestion that was put forth by the Progressive Conservative Party were accepted, it wouldn't be much change. Mr. Speaker, I took the opportunity to phone four lawyers who are quite prominent in Family Law and I phoned four lawyers who have not been really in Family Law and they said anybody that said that this is not a tremendous step forward in the laws of Manitoba regarding marital reform or marital law, doesn't really know what he's talking about.

Mr. Speaker, I would like to say about Mr. Silver, who wrote this legislation, I think he did one whale of a job. He was forced to put together in the period of about three weeks, three bills. He did the other one after the report came in. He listened patiently to the committees and I think that he could probably, given the proper amount of time, have written this legislation excellently. But to be forced by this government to push this through basically for political reasons is something that I don't think should have been pushed upon him.

Mr. Speaker, I heard it said tonight by the Attorney-General that we got \$100,000 or many thousands of dollars worth of advice from lawyers in the hearings. Mr. Speaker, I didn't really know that we were a charity case in the Province of Manitoba. If this government is going to pass legislation on the basis that we will get free legal knowledge when we have hearings, I assure you we're in trouble. Mr. Speaker, what should have been done is there should have been brought together after the Committee Report some of the best brains on Family Law in this province to work with our legislative people to write this legislation. Mr. Speaker, Mr. Silver did a whale of a job but he is not practicing in Family Law all the time and should have had that advice before he even started. — (Interjection)— Mr. . . . came in after. Mr. Speaker, the Attorney-General has been out of practice for eight years and on one occasion, Mr. Speaker, he said that I've never had a time in my practice when I heard of a spouse suing another spouse and the person happened to say to him, "Well I hope not, it was only passed in 1974." Mr. Speaker, the Member for St. Johns is a lawyer and has been out of practice for eight years. — (Interjection)— Well, Mr. Speaker, he may have come back into practice after he left the Ministry of Finance, but I can assure you, Mr. Speaker, he was an MLA before he was elected Minister of Finance and he was in Metro Council and other Councils. I assure you, Mr. Speaker, the experience that went into the writing of this bill was disgusting and an insult to the men who write the legislation in this province. They needed the help and they never did get it.

So, Mr. Speaker, we have before us something that is rather disgusting in the fact that this legislation is being just rammed through this Legislature. They stand up with smiles on their faces saying, "Look at the hearings we had." Yet, last night major changes to the legislation were made. Mr. Speaker, I'm quite used to the jousting of the men on the other side. I'm quite used to the fact that they don't take this seriously. I'm quite used to the fact that when you're passing legislation that's going to have more effect on the family life of this province than any other legislation as far as I'm concerned in the last twenty-five years, I'm quite used to the fact that they take it lightly.

Mr. Speaker, I would also like to add that in the last draft, "This is a rough copy of the original prepared for the purpose of convenience only and has not been proof-read for accuracy," and we're asked to pass it tonight. It has not been proofread for accuracy. The Attorney-General stands up and moves this legislation — I assure you, Mr. Speaker . . . — (Interjection)—

**MR. SPEAKER:** The Honourable House Leader.

**MR. GREEN:** Mr. Speaker, on a point of order. The honourable member is not . . . He is asked to pass the legislation that was reported out of Committee. Let me say to the honourable member, if he needs the time, he can move the adjournment.

**A MEMBER:** That's right.

**MR. SPEAKER:** The Honourable Member for Sturgeon Creek.

**MR. F. JOHNSTON:** Mr. Speaker, I don't mind if the people on the other side, the honourable members, try to get over their embarrassment on this thing. Mr. Speaker, I have no qualms about that at all. I can assure you that that's what we had in front of us. — (Interjection)— You defend it if you like. We had a proposal that would bring a situation whereby on separation there would be a 50-50 split unless it was proved otherwise with judicial discretion. We have similar to that here, some similarities. We had proposed and always agreed in the Law Reform Commission that a spouse should have the right to ask the question about the financing or the financial position of the other spouse and I think that that is something that we went for. We believe that that's something that should be.

Mr. Speaker, we made it very clear that our intention was that this province would not have any law cases such as others that have happened in this country of ours. Mr. Speaker, the Minister if he had only taken the time to listen to the history of the case he's speaking of, he'd find out he's talking through his hat. — (Interjection)— Well, if he's talking about the Murdoch case.

Mr. Speaker, I will tell you this, that I was very amazed when I had somebody read out the chapter or the paragraph we've all heard and this is the man who said this. We've all heard this about the Murdoch case — how the woman worked on the farm, milked the cows, did everything like that and then he showed us the book and said that didn't refer to the Murdoch case, it was a case versing somebody else. It had no relation to the case at all.

Mr. Speaker, I don't believe that this legislation will do one thing, not one thing to help a marriage that is on the rocks. If it's on the rocks, this won't help it, this will rush it. Mr. Speaker, I can assure you that the happy marriages in this province will now be endangered because of this legislation. It will discourage people to marry as a matter of fact, and as my colleague said, will encourage common-law relationships.

**A MEMBER:** Amen.

**MR. F. JOHNSTON:** I heard the Minister say "Amen" and he ought to be ashamed of himself. As I said, I'm used to the frivolous jousting of the honourable members of the other side. Mr. Speaker, we had a situation the other day where we have young people in our courts all the time and the problems are that family breakups are there. And now we have a situation where this government proposes legislation that will help break down the family structure. It can't do any different because a happy marriage is a happy marriage and you don't say it went on the rocks with this legislation. So you agree

Friday, June 17, 1977

with me. Now we'll see how you vote —(Interjection)—

Mr. Speaker, I had it brought forward in the Committee "California" on many occasions and how California was operating so wonderful under this type of legislation. The latest figures that I could get is that we had 121,700 divorces in California in 1974 under this type of legislation. California recognizes Nevada divorces so it's probably three times more at least as far as family structure in California is concerned.

Mr. Speaker, why do the members of this Legislature think that they have the right to interfere in the married lives of people? Why does the Member for St. Johns and the Attorney-General and at least the other members on the Committee from the government side, believe that they can say or should legislate the rules and regulations within a home? I didn't know that that was supposed to be done in this room. I really didn't know that if a couple got together and said, I think that you should manage this particular section of the finances of this house, and I should do something else. . . —(Interjection)— Mr. Speaker, it should be 50-50. We agree with that, but what if those two people don't want to operate that way, who the hell are you to say they are? —(Interjection)— That's right, who the hell are you to say they are?

**MR. SPEAKER:** Order please. Order please.

**MR. F. JOHNSTON:** Mr. Speaker, I heard the words, "opt out." How many people will even know this is passed? How many people will be in such tangled lives when they start to make up their own affairs and didn't know this legislation even operates.

There's the insurance involved. I wonder if some of the honourable members who weren't on the Committee know that your insurance is involved, your pension scheme's involved, everything. —(Interjection)— Do you know the problems that that's going to create on a bill that was just finished last night? This government doesn't believe in 50-50; they believe in meddling in people's lives. Mr. Speaker, I will tell you that this legislation will create many more problems than have been put forth on the basis that you've gone into that type of legislation.

You see, Mr. Speaker, this socialist government that we have knew darn well that Manitoba needed some legislation that would make our marital laws better. They actually knew that it was something that had to be done and so did we. They went ahead and instead of legislating the fact that the courts will be directed to, on breakup, see that there's a 50-50 split, they had to go that big step further. —(Interjection)— That's the big step further. Speaking of sloughing-it-off as I heard from the Minister of Labour, we gave you a proposal that would be easy, could be put into effect immediately. We said we would pass it 1, 2, 3, and then we suggested we sit down and write this legislation with expert advice the way it should be done. Now, that's guts, Mr. Speaker. It doesn't take guts to ram legislation through in one night. —(Interjection)— Mr. Speaker, that's what takes guts. That's what takes guts, when you know that something has to be done, that you don't be pressured by pressure groups and go ahead and put the legislation through for political reasons before an election. —(Interjection)—

**MR. SPEAKER:** Order please.

**MR. F. JOHNSTON:** Mr. Speaker, this legislation we are passing when we become involved in the family life is something that I just really have trouble understanding. Mr. Speaker, this legislation says that women are not equal to men. This legislation says that unless we legislate for a small group of people who don't have the capability of managing their family lives together that we should legislate for all of those women who are capable of managing a family life or two spouses that are managing a family life. This legislation says — and I don't believe women need it one bit — this legislation says women need the protection of the Province of Manitoba. That's what it says and I don't believe they do. I've got more confidence in women than that, and I've got more confidence in marriage than that.

The members on the opposite side, I can assure you, have decided, and I heard it many times during Committee. —(Interjection)— "Well" they would say, "Well, who should make that decision? Who should make that decision?" I'll tell you who should make the decision, Mr. Speaker. The decision should be made on the agreement between two people and not legislation from this Legislature. —(Interjections)— That's right.

**MR. SPEAKER:** Order please.

**MR. JOHNSTON:** Mr. Speaker, I don't think they caught the last words: "And not legislation from this Legislature," which will create problems between them. Now clap for that, "create problems between them."

Put the marital situation in the position where there's going to be many arguments brought up over it. So Mr. Speaker, I can say to you that the small group pressures of other people who think that they can tell other people how to run their lives, is something that we should avoid. Let people have their legislation . . . —(Interjections)—

**MR. SPEAKER:** Order please.

**MR. JOHNSTON:** . . . let people have their legislation on the basis that in the breakup, people will be treated fairly in this province, treated 50 percent. And that's what we've proposed. But don't start

Friday, June 17, 1977

meddling in the family lives of this province because you know, Mr. Speaker, this government doesn't realize what they're getting into. I tell you, Mr. Speaker, if this legislation goes through the way it is, I would suggest that the Premier better have the election before this is proclaimed. Because there are more problems for this government in this legislation because it hasn't been thought out thoroughly; because it meddles with everybody else. And quite frankly, Mr. Speaker, I am quite willing to walk out into my constituency any time and say, "I believe that the marriage should be on split-up equal, 50-50; I believe you should be able to run your own lives because you didn't elect me to tell you how to do it." **MR. SPEAKER:** The Honourable Leader of the Opposition.

**MR. LYON:** Mr. Speaker, at the risk of prolonging what has been a very interesting debate — (Interjections)—

**MR. SPEAKER:** Order please.

**MR. LYON:** . . . I intend to make only a very few remarks on the bill. Mr. Speaker, it has been said by all speakers I think on this side of the House, without attempting to include the honourable members of the Liberal Party as part of our caucus, even though the comments were made by the Member for Fort Rouge, that the bill is impertinent. I don't think there can be any question about that. The bill does not represent the principles that were set forth by the Manitoba Law Reform Commission, on which I think there was general and universal agreement. Certainly, there has never been any question on our part that there should be joint and equal sharing as between spouses, and that that principle could be, with study, enshrine properly in legislation. We brought forward an alternative which we thought did accomplish that principle in a much more perfect way than is accomplished in the bill that we see before us tonight.

I know that my honourable friends opposite, with their hooting and their calling and so on, are trying to indicate that — and using the words of the verbal contortions from St. Johns — the progressive legislation, and of course if any one is opposed to any of their legislation, they must automatically be reactionary; and of course if anyone suggests that their legislation is faulty, again they're reactionary because anything that emerges from that side of the House is expected to be too perfect. After all "I echoed the words this afternoon, the of the NDP party is the same as that of the Labour Party in Britain. Their theme is, "We are the masters now and what we say goes and we have the majority to back it up." That is the case temporarily. And my honourable friends will pass this bill tonight, but that will not make it good law. If my honourable friends had seen fit to accept reasonable alternatives that were proposed which did not involve the kind of unnecessary interference that this bill is going to bring into tens of thousands of families in Manitoba, they would have had, I am sure, unanimous support for its passage tonight.

And I know that from their attitudes and from the — (Interjections)— If the Minister of Labour would like to go and rejoin the happy hour that he hasn't left since 5:30, that's fine, but I think the rest of us would like to get on with the debate.

Mr. Speaker, this is not good legislation — (Interjections)—

**MR. SPEAKER:** Order please. The Honourable Minister of Labour.

**HONOURABLE RUSSELL PAULLEY (Transcona):** I would like to know from my honourable friend, the Leader of the Opposition, what was his inference, because I aenthome, I had my supper, I came back here — and if what my honourable friend is trying to impute that some other situation has prevailed in the interim, I want him to declare it because such is not true. I am completely in control of my facilities and I doubt whether the honourable member, the Leader of the Opposition is in control of his by the stupid utterances that he has just made. I want to know; as a point of privilege, what he meant, because it is an insinuation that is unjust, that is not called for, and inaccurate, but typical.

**MR. SPEAKER:** The Honourable Leader of the Opposition.

**MR. LYON:** Mr. Speaker, my honourable friend has now described what he had as a happy hour, and I was suggesting that he should resume that so that the House can get on with its business. — (Interjections)—

**MR. SPEAKER:** The Honourable Minister of Labour. Order please.

**MR. PAULLEY:** . . . whether the Honourable the Leader of the Opposition ever has a happy hour because his conscience must bother him in view of his past record in this House.

**MR. LYON:** Mr. Speaker, my honourable friend is merely making it apparent in the inference that he was concerned about by his remarks. Mr. Speaker . . .

**MR. PAULLEY:** Mr. Speaker, I again rise on a point of personal privilege, that I ask my honourable friend what he means by that, because there is so much innuendo in what he says that even the fourth estate may misinterpret what he is saying. And I don't think my honourable friend — and I am using that term very very loosely — is competent of making any assessment as to a difference of — (Interjection)—

**MR. SPEAKER:** Order please. Order please.

**A MEMBER:** Mr. Speaker what is the order?

**MR. SPEAKER:** The order is that the Chair wishes to intervene. If two gentlemen have a personal difference, I believe that that is not a matter of privilege, but I would suggest . . . — (Interjection)—

Friday, June 17, 1977

Order please. I have not completed my remarks. Now may I have an opportunity to do so on the point of privilege the honourable member raised. —(Interjections)— Order please. I would suggest to all honourable members I have made a little sign, it's got two four-letter words on it —(Interjection)— it is irrelevant, that's true, but nevertheless —(Interjection)— The heat in the Chamber has been getting higher continually, and it's because members are becoming personal. I would suggest to the Honourable Leader of the Opposition that it is not proper parliamentary procedure to be inferring or to cast any kind of aspersions on any individual member of this Chamber, and I would suggest that he kindly rephrase his remarks. The Honourable Leader of the Opposition.

**MR. LYON:** Mr. Speaker, I'll just carry on without interruption, I trust, from the Minister of Labour. Mr. Speaker . . .

**MR. SPEAKER:** The Honourable Minister of Labour.

**MR. PAULLEY:** Mr. Speaker, in my years of experience in this House, I have always adhered to the admonitions and guidance from Mr. Speaker, and I would suggest that in accordance with the rules of this House, that every member has a right to rise on a matter of personal privilege, notwithstanding the suggestion that you have made, Mr. Speaker, to keep it cool. And I would suggest that you, in using that placard — whatever it was — keep it cool, is not in conformity with the rights and privileges of a member of this House. The Honourable Leader of the Opposition by innuendoes, accused me of a certain state of mind which I reject, and I suggest to you, Mr. Speaker, in all deference, that I have my rights and I have my privileges, and that by the innuendoes of the Leader of the Opposition, that you should ask him to withdraw the suggestion that over the supper hour, I didn't have a happy time. And I want to assure you, Mr. Speaker, that I am not having a happy time tonight because of the innuendoes of that incompetent, asinine, nincompoopish Leader of the Opposition.

**MR. SPEAKER:** The Honourable Leader of the Opposition.

**MR. LYON:** Mr. Speaker, I rise not on a point of personal privilege with respect to the last remarks of the Honourable the Minister of Labour. I am quite happy to accept the fact as stated by him and as exemplified by his conduct tonight, that he didn't have a happy hour.

Mr. Speaker, to get back to the serious business of the House . . .

**MR. SPEAKER:** The Honourable First Minister.

**MR. HONOURABLE EDWARD SCHREYER (Rossmere):** There is a problem here, Sir, and I realize the difficulty it poses for you. Since the matter was raised in a format that is innuendo, it is rather difficult for you, Sir, to insist on a withdrawal, since innuendo is difficult to withdraw. And I don't believe that we can properly on this side insist on a withdrawal. But let the record show, because I believe it is only proper that it should, that the Minister of Labour is sobriety personified here this evening. Let that be clear. We are not insisting on any withdrawal since innuendo is impossible to withdraw. **MR. SPEAKER:** The Honourable Leader of the Opposition.

**MR. LYON:** Mr. Speaker, the bill before us is previous in imperfect form. It will, as one of the speakers said tonight, cause more trouble than it's going to cure in its present form. The principle can be accomplished in a better way and this Legislature should be permitted to work on the bill and be permitted to produce it in a better way. The Honourable Attorney-General can confirm whether or not it is true, but the rumour is that one of his chief advisers from the Manitoba Law School working on this bill withdrew from that consultation because he felt that the bill should be held up. If I am not accurate on that respect, the Honourable Attorney-General can advise.

**MR. SPEAKER:** The Honourable Attorney-General.

**MR. HONOURABLE RUSSELL PAWLEY (Selkirk):** The honourable member is not accurate.

**MR. LYON:** Thank you. But Mr. Speaker, I think it is clear from the comments that have been made tonight on this side of the House from the Member for Fort Rouge, the Member for Fort Garry and others, that there will be unwarranted intrusion, because of this legislation, in the private affairs of people of Manitoba, going way beyond what is necessary to accomplish the principle. Mr. Speaker, the easy position, I would think, and probably the politically sound position for a person, would be to vote in support of this bill, even though we consider it to be very bad legislation, badly put together, hastily conceived, as demonstrated by the Member for Sturgeon Creek when he described the various mutations in which it has gone through.

So, Mr. Speaker, that easy position would be quite easy for members of this party, or for individuals here to take. But as the Member for Fort Rouge quite possibly pointed out, many members look upon this bill as a matter of conscience in terms of its effect, and I think it will have a dilatorious effect on the institution of marriage in its present form. The vesting provisions that are here are not in the form that was suggested by many of the delegations that appeared before, because they unnecessarily antedate the question of marriage breakdown.

The proposal, as I have said before, that was put before us would have accomplished and enshrined this principle in a much better way without the kind of unwarranted intrusion that this bill brings about. And while the easy position of course would be politically to support the bill, I must say to the Honourable Attorney-General, Mr. Speaker, that I personally can't take that easy position. And I know that the Attorney-General and maybe others of his party are going to say, "Ah, the Leader of

Friday, June 17, 1977

the Conservative Party is opposed to joint-sharing in the marriage contract." The Leader of the Conservative Party is not opposed to that at all. The Leader of the Conservative Party is opposed to bad legislation which is going to impact very badly on many many families, many thousands of families in Manitoba, who realize not what we are doing here tonight, what this Legislature is about to do. I'm afraid that when they do come to realize the degree of interference, the degree of unwarranted interference that there is in the marriage contract, that the Attorney-General and his colleagues will have to be in a position to say why they did not take a more studied approach to the bill and take it in the stages that would be necessary in order to ensure the least amount of interference in the private affairs of individuals in Manitoba.

So, while I say probably it's not a politically wise thing to do, it's certainly not an easy thing to do, because the easy thing to do would be to sit quiet and support the bill. I want to say that I am going to vote against this bill at third reading. I think there is a better way of doing it and if the government changes it, it will be done in a better way, I can assure the Attorney-General of that. And while making that position clear on my own behalf, I do wish to say that I am not asking any member of my caucus to be bound by my opinion, because I do believe it is a fundamentally important bill. I do believe that there can be differing views of conscience and outlook upon this bill as to whether or not it is the proper vehicle, but I wanted to register my opinion and to let the members of the House know how I feel, as an individual member, the Member for Souris-Killarney, with respect to this particular — (Interjection)—

**MR. SPEAKER:** Order please.

**MR. LYON:** One would have hoped that the Dean of the House on his last night in this Chamber would have made more positive contributions. —(Interjection)—

Well, Mr. Speaker, that is the position that I am expressing, I am not asking any member of my caucus to be bound by my position, they are free to vote as they wish. I think it can be done in a better way in the public interest, it will be done in a better way in the public interest in the future.

**QUESTION put, MOTION carried.**

**HONOURABLE MR. PAWLEY:** Ayes and nays, Mr. Speaker.

**MR. SPEAKER:** Call in the members.

The Motion before the House is Bill No. 61 for Third Reading, The Marital Property Act.

**A STANDING VOTE was taken the result being as follows:**

**YEAS:** Messrs. Adam, Axworthy, Barrow, Bostrom, Boyce, Burtiak, Cherniack, Craik, Derewianchuk, Desjardins, Dillen, Doern, Evans, Gottfried, Green, Hanuschak, Jenkins, Johannson, G. Johnston, Malinowski, Miller, Osland, Patrick, Paulley, Pawley, Schreyer, Shairansky, Sherman, Spivak, Steen, Toupin, Turnbull, Uskiw, Walding, Wilson.

**NAYS:** Messrs. Banman, Bilton, Blake, Brown, Einarson, Enns, Ferguson, Graham, Henderson, F. Johnston, Jorgenson, Lyon, McGill, McGregor, McKenzie, Minaker.

**MR. CLERK:** Yeas 35, Nays 16.

**MR. SPEAKER:** In my opinion, the Ayes have it, declare the Motion carried.  
The Honourable House Leader.

### **BILL (NO. 60) - THE FAMILY MAINTENANCE ACT**

**MR. GREEN:** Bill No. 60, Mr. Speaker.

**MR. SPEAKER:** Proposed motion, Bill No. 60. The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** Mr. Speaker, when I look at the clock and it is ten after eleven and we still have a few bills to go yet, I want to say at the outset that the comments I make will be brief and I hope they will be right to the point.

In the first place, Sir, I would like to say that unlike the previous bill, Bill 60, does not, in my estimation, follow the recommendations of the Law Reform Commission to the same extent that they did in Bill 61.

The second point I want to make is that the recommendations that were made by numerous people appearing before the Committee recommended some form of enforcement, that we needed some vehicle because 75 percent of maintenance payments were not enforced. Sir, I don't see anything in this bill that moves in that direction.

Another point I want to make, Mr. Speaker, is that there was a very strong representation, I think it was a representation that deserved an awful lot of attention, a recommendation that came from the Catholic Women's League, dealing with a Conciliation Court. In that brief that was put forward by that group, Sir, I think they said that in California where this court was used that 40 percent of the cases that came before it did not come back. Now, that does not say that they were successful in 40 percent of the cases, but I think it said that there was a great deal of hope for the use of a court of that nature.

Sir, in the Province of Manitoba a year ago the Attorney-General brought forward recommendations for a unified family court, which I thought would have great use and be of great benefit in

**Friday, June 17, 1977**

family matters in this province. The government in its wisdom, rightly or wrongly, chose to delay that. The reason given by the Attorney-General, at that time, was because of a budgetary restraint but, Sir, that unitary court did not come forward. It is to be hoped that we will see it in operation in the coming year.

Sir, almost every representation that we had was dealing with problems, problems of almost monumental nature that would require judicial discretion and judicial time and input. Here we find that instead of using all the court facilities that are available in the Province of Manitoba, we find that changes were made to reduce or eliminate one of those courts, so there will be a restriction to some degree on the use of the court facilities.

At the same time, Mr. Speaker, unlike the work that was done on Bill 61, I think I will have to say that the government position on Bill 60 was a much harder position. The amendments and the consideration and suggestions from other members of the Committee who, I suggest, Sir, worked very hard and spent many hours, both in listening to briefs and in working on amendments in this bill, I don't think there was near the success with suggested changes in Bill 60 that we found in 61. We had representations, Mr. Speaker, from numerous members in the legal fraternity who warned of the dangers. One respected in particular, a Mr. Rich, who I believe, Sir, is a well of member the Law Society and, I think, he also serves as a judge himself — whether it is on a full-time or a part-time, I think, it is a part-time basis — indicated that what we were doing was trying to funnel all the problems down one fairly narrow channel with really no solution when you reached the end of that channel. He referred to it, I believe, as the Spadina Expressway concept.

Sir, if we haven't put the machinery in place to handle the problems, and I suggest that there will be more problems, that the problems that we have today are great, but they will be greater, that if we have not got the machinery to handle it, then I think that the priorities that this government have taken are wrong. I would hope that they would have put forward the unified family court and had that in existence and operation before they even attempted to bring in this type of legislation. I would have hoped that they would have listened to the accord that was given to them a year ago by — and here again I have to correct my memory, I stand to be corrected — but I think it was almost unanimous, the support that was given to the concept of the unified family court at that time. But, now we find, Sir, that instead of providing the machinery they are providing us with a bill instead.

Sir, this is not going to solve the problem. Maintenance orders will still not be enforced. I would suggest to you, Sir, that at the end of a year of operation if there is any significant change in the amount of enforcement of maintenance orders I would be very very surprised. I hope, I sincerely hope that that is a pessimistic attitude because every one of us wants to see those maintenance orders in force and enforced.

So, Mr. Speaker, with just those few words, I think I have indicated sufficient areas, and there are many more but in the interests of time I will make my comments very short. I would indicate to you that the move that has been made by the government, in the presentation of this bill, is one that I cannot support at this particular time.

**MR. SPEAKER:** The Honourable Member for Fort Rouge.

**MR. AXWORTHY:** Well, Mr. Speaker, after having presented the case that we did on behalf of Bill 61, I think, that the principles, arguments and feelings that were expressed at that time hold a true for this bill as they did before, and that the development of Bill 60 is a logical extension of what took place in Bill 61. It was a necessary extension, in fact, the one could not proceed without the other or succeed without the other.

In this case, we deal with the more unfortunate part of marriage, and that is when the marriage is broken down and we must find some ways of providing an equitable solution to the repair of that to make sure that the protection of both spouses is adequate, and we believe that the principles again are sufficient for that, the elimination of the fault concept as much as possible or as humanly possibly in the bill, and the requirement that the degree of independence and self-support be established.

We would just simply like to repeat, Mr. Speaker, the one argument that was brought forward by our group in the Committee with as much effect as we could possibly muster, and that is that this will put tremendous pressure and burden upon the court, the administrative judicial system of this province, and we are not sure, at this stage, that court system is adequate to handle it at this present point in time. That is not an argument for a delay of the bill but it is argument for precipitous action by the government to make sure that the court enforcement system is brought up to standard.

There is, I think, a basic principle that is important here, and that is that you can't establish rights or legislative statutes if you don't have the means of enforcing them, and in our estimation, Mr. Speaker, the means are not yet available. We took real cognizance of the representations made, that the present mechanisms for enforcement are totally inadequate and therefore, many people on support or maintenance arrangements suffer as a result. We were assured by the Attorney-General they could be introduced in the statutes to correct that, so we take on a certain amount of faith that there will be immediate prescriptions established to work into the area of enforcement.

We would like to suggest, Mr. Speaker, that the establishment of a task force to look at this whole

Friday, June 17, 1977

combined area of marriage conciliation and advice and reference would include, we would hope that the terms of reference of that task force would be immediately established so that any uncertainty created by this legislation could be quickly appeased. We don't think it is something that should be allowed to lag in any way and I would hope that the Attorney-General, once he recovers his demeanour and his energy would be able to assemble such a task force in very short order, establish very clear terms of reference and call upon a wide representation of this community to present to him the kinds of measures that have to be taken.

In the meantime, Mr. Speaker, I think that is really incumbent upon the government, within the court system itself, where they don't have to wait upon the deliberation of a task force, that the personnel and resources that are required to make the enforcement procedures effective be implemented right away.

So, our major concern with this bill at this stage, Mr. Speaker, is that the bill be given some real meaning and some real life by giving it the tools to work with, because we are afraid that if there is not effective and expeditious enforcement of the orders passed down of this Act, then the Act itself and the statutes that we are providing might become discredited. So, it's very important that immediate action be taken right away and we hope that in the two areas: one, the establishment of a task force to look into the different representations that were made for improvements in the area of marriage conciliation and enforcement of these be instituted within weeks really of the passage of this bill; and secondly, that the court system be brought into proper standard so that this statute can very quickly be a real live and living part of the court activity in this province.

I would also say, Mr. Speaker, that in this area, there was one particular thing that struck me as I listened to the representation, and that is that it also raises a number of questions about the issue of children in this whole area. We debated in this House two years ago the amendments to the Child Welfare Act, and at that time I felt them to be inadequate and felt somewhat frustrated at not really having a full sense of what could be done. I think what is really happening in this bill is that we have to rethink in many cases, the position that children will occupy and what rights and positions they will have in relation to this question of support and maintenance. There is not much provision for the rights of children in this Act. We are mainly talking about disputes between adults. And I think that that should be part of the terms of references of any task force that is established, that we should look very carefully at how the rights and privileges of children in these kinds of cases can also be adequately protected, and that we take a look at the operation of the Child Welfare Act and other related statutes as part of that task force operation.

**MR. SPEAKER:** The Honourable Minister of Corrections.

**MR. BOYCE:** Mr. Speaker, I deliberately avoided participating in this debate until this point in time because some of the criticisms that were being made by the representatives to the Committee considering this particular bill and the whole area of family law, relative to maintenance orders — their criticisms were valid and I have to accept the responsibility because the enforcement of maintenance orders is under my jurisdiction. The processes however, are under the Attorney-General's Department, and it has to be processed through the courts. I made the deliberate decision that the fifteen staff that we have available during this fiscal year — I did not increase it this fiscal year or ask for any increase because I didn't know exactly what would happen as a result of the amendments which would flow from the considerations that were being given by the legislature to family law, property, maintenance and the rest of it. But, nevertheless, on the assumption that there would be some changes and it would more or less go in this direction, we have already deployed staff to be in a position for the next fiscal year to better process people who are in the situation where maintenance orders have to be made. The only reason I choose this time to speak at all is because in some ways, the fifteen people who are presently employed in that particular segment of government service — I want to defend them, because in my judgment they have done an excellent job with the limited capacity that they have had.

I mentioned during my Estimates, which caused little note, that over half of the people who come into a situation where there is separation or some order might necessary flow, over half of them are settled without the court process. I didn't want to take exception to the figures that were being bandied about — that 75 percent of the maintenance orders issued by the courts, are perhaps not properly enforced. But nevertheless, when the session finishes, I intend to send out to all members . . . and I would suggest that a task force is not necessary, that what we need is a better administrative procedure for maintenance orders and that this will be done. But, between now and the next session, I intend to send out some information to members, if they are really interested in the problem, that they can study the information that is available from two sources. One was the million dollar study that the health education and welfare did in the United States. We don't have to reinvent the wheel, we can take advantage of the million dollar study that the American Government has made available to us. And two, the information that is available through the Vanier Institute on Family and I intend to make this available to all members of the Legislature.

**MR. SPEAKER:** The Honourable Member for River Heights.



Friday, June 17, 1977

**MR. SIDNEY SPIVAK:** Mr. Speaker, I just have a few remarks to make. I want to make one general remark before I deal with the bill and the position that I take on the bill.

First, with respect to the question of maintenance, I'm I'm one who has said in the House before on many occasions and one who firmly believes that there is a far greater involvement necessary in the collection of maintenance by the state and the responsibility that the individual, who in fact has an obligation, sees to it that the payment is made to the state with the power of the state of collection and with the power of the state to enact whatever legislation that is required to ensure that payment is made and that administratively it can be handled in such a way that those who are the recipients of it, are in a position to know that the state has taken the responsibility for them. I think that's a far more fundamental thing than what we're dealing with now in and far more fundamental than has been talked about. I believe that in practice this is something that will come about and it is simply a question of time until there is that direct involvement in that procedure, with all the ramifications that it has, with all the implications it has for those who are responsible for payment of the maintenance, in the sense that they would be responsible with the full power of the state, in the same way that they are responsible for their payment of their income tax and for violations that take place with respect to that.

With respect to the bill, I come back to the same point that I came back to before, as to whether in principle one passes this bill with all of its imperfections or whether one accepts that the bill with its imperfections should not be passed. And, I have to say here, that unlike the Marital Property Act, it is my belief that this bill requires far more study. The principles and the changes that are proposed are certainly acceptable, but the difficulty is that there are just a number of imperfections and the study that is required should be given to it so that in effect, what we would produce would be much better and would in effect give body and substance to the actual bill, the proposal and the changes. The Wives and Children's Maintenance Act, under that provision, under that situation, would remain, and although it is imperfect in its operation, it still could remain and the year's study that could have been given for this so as to provide a bill that would be much clearer and much superior in its application and in its intent and in its description in terms of its specific results that it's trying to achieve' would have been, I think, a far better position.

So here, Mr. Speaker, I believe that the principle of change of the Wives and Children's Maintenance Act, the principle embodied is one that should be considered, but we do have an Act in existence and I believe this is one situation where further consideration is far more important in terms of the need to perfect the bill and perfect the principles so that the result that is attempted to be achieved will in fact, be achieved. I do not think that this will be the case and therefore, on that basis, I do not believe the bill should be supported.

**MR. SPEAKER:** The Honourable Member for Fort Garry.

**MR. SHERMAN:** Mr. Speaker, I intend to be very brief. I want to say that I believe Bill 60 can be made to work. I believe that it can be made to work with some more intensive work on it over the next few months, and with the creation and establishment of the type of enforcement machinery that has been referred to by previous speakers, it would guarantee payment of maintenance orders. Because it lacks that at the present time, I believe, Sir, that it is essentially meaningless legislation. What matters in maintenance is that the maintenance cheque gets into the hands of the person, the spouse — it's usually the wife — who is supposed to be receiving that money. If you can't put that money into her hands, then all the fine, high-blown, high-sounding phraseology that we develop and enshrine in statute in this House is nothing, it means nothing and is totally meaningless.

I suggest, Sir, that until we're able to improve the system, the bill counts for naught. Now it's not easy to improve the system' but that is the challenge that this legislature, that government and the opposition should be working on, and that is the challenge, a target that was entirely missed by the bill in front of us. I'm not laying that at anyone's doorstep as blame blame, I simply suggest that that is what happened. We got off track on family maintenance and started pursuing objectives that are far, far down the list of priorities to the top priority essential job that has to be done.

So I suggest, Sir, that all of us in this Chamber, government and opposition, should be addressing ourselves to the fact that that's the job that has to be done first and foremost. I welcome the comments of the Minister of Corrections. I welcome the fact that his department is taking some steps in the direction of making enforcement of maintenance payments effective and actual rather than potential and when those steps become actual rather than potential, and when they become demonstratively effective, Sir, then I think we will be in a position to put the legislative machinery that is needed into place quickly and realistically. Until then, Sir, I don't feel that Bill 60 performs any kind of effective or meaningful service for the persons who need it, and those are the persons who are waiting tonight throughout the Province of Manitoba for maintenance cheques that will never arrive.

**MR. SPEAKER:** The Honourable Minister of Labour.

**HONOURABLE RUSSELL PAULLEY, (Transcona):** Mr. Speaker, I just want to say one or two words in connection with this bill. I do agree that I haven't been involved insofar as the Committee

Friday, June 17, 1977

hearings are concerned, but it always confuses me as to the position of the opposition. The Honourable Member for River Heights has said that this is meaningless legislation and the bill should not be supported and I suggest that you can't have the best of two worlds.

In my career here as a member of the Legislature, insofar as the maintenance is concerned, it has been an ongoing problem for many years. I suggest, Mr. Speaker, that in the proposition contained in the legislation proposed by my colleague, the Honourable Attorney-General, that we are at long last attempting to overcome the difficulties that we have had and that those who are concerned in the family maintenance have been confronted with over the years. So, it seems to me, Mr. Speaker, that, having had the input over the years of the difficulties that so many people have been confronted with, whether or not we agree entirely with all of the contents of this particular bill, it is a bill that will further the position of those who happen to be in the unfortunate position of having to receive maintenance by legislation or otherwise.

For the life of me, Mr. Speaker, I cannot understand — and maybe somebody in the opposition can inform me — I cannot understand the position taken by the Conservative Party of Manitoba where they say that this is meaningless legislation. They agree that something should be done and yet at the same time say, by the utterances of the Honourable Member for River Heights and the Member for Fort Garry, that these considerations should not be supported. Mr. Speaker, I frankly say and honestly say to the opposition, "Where do you really stand in this piece of legislation as indeed in other pieces of legislation?" You agree that something should be done. My colleague the Attorney-General and this government, recognizes that something should be done and yet at the same time I hear spokesmen for the Conservative Opposition saying that this is meaningless legislation and should not be supported. Mr. Speaker, in twenty-five years in this House, I have come to the conclusion that you have to stand on two feet and decide whether or not something should be changed or otherwise. And I say to my honourable friends across the corridor that this may not be all that is desired, but certainly it is a forward advance in the legislation that is prevailing at the present time. I suggest that rather than saying it's meaningless, rather than saying that it should not be supported, that at least it is a forward thrust made by my colleague, the Attorney-General, and this government in trying to overcome many of the problems that we have been confronted with over the years.

In particular, may I say, Mr. Speaker, that in my capacity as a member of this Legislature, not as a Minister of Labour, this is one of the areas that I have had a considerable involvement in because maintenance orders and the likes of that have not been adhered to, to the detriment of those concerned. So I suggest, Mr. Speaker, that rather than saying this is meaningless legislation, it is good legislation and rather than that it should not be supported, I suggest to my honourable friends opposite, if they had have had the personal involvement that I've had over the years in this particular area of human endeavour, they would support the bill as a forward step rather than rejecting it.

**MR. SPEAKER:** The Honourable Attorney-General.

**MR. PAWLEY:** Mr. Speaker, I just want to make a few brief comments. First, this legislation in some ways has been down-played and is in fact in many ways I think more important than the property bill. I say that because most Manitobans who are involved in marital disputes end up insofar as making claims for maintenance — that most Manitobans do not have property to divide of any significance and I would say, Mr. Speaker, that the vast bulk of disputes that take place involve the disputes in Family Court in connection with the awarding of maintenance rather than with disputes in the Court of Queen's Bench involving the division of commercial assets, if we talk about the Manitoba of reality. We have lived in Manitoba for many years under the provisions of the Wives and Family Maintenance Act, archaic and ought to really have been updated years ago by the previous government and yes, by our own government. We should have proceeded earlier to update those provisions, archaic provisions that belong to another age, provisions which do not — do not — recognize the need to restore financial independence for a period of time to a spouse until such time as that spouse is able to find her own or his own way into the world again after the breakup of their marriage situation.

Comments have been made in connection with maintenance. I have very freely acknowledged that there is much that we can do by way of improving our maintenance provisions although I do want to say, Mr. Speaker, that in comparison with the progress that has been made elsewhere in Canada, we are not taking a back seat. In 1971 my very able predecessor, Mr. Mackling, introduced the enforcement officers into the Manitoba context. One of the bills that was introduced in 1974 brought the garnishing orders for maintenance payments into a position of priority over other garnishing orders that were served as a result of claims dealing with trade debts, recognizing the greater importance of maintenance orders in order to preserve the lot of the family. Major moves, moves, that in the main, I believe, have not been pursued in most other provinces.

But in saying that, I want to freely acknowledge that there is much more that we can do and I have indicated in committee and I wish to record it here that one of our next tasks must be to really delve into the many areas that were raised during the committee hearings and that we will have to establish

Friday, June 17, 1977

a task force or some other mechanism in order to deal with not only the enforcement of maintenance orders — which repeatedly we heard reference to that something should be done to improve that area — but also dealing with conciliation and pre-marital counselling. I would trust that we could move in that area to make even greater improvement insofar as our system here in Manitoba is concerned. But, Mr. Speaker, one must accompany the other. I acknowledge that.

In my view, Mr. Speaker, to take a position that this bill is not going to be supported because of alleged weaknesses in the maintenance enforcement orders is not really sound reasoning. If we are going to travel from point A to point B tonight, distance-wise travel, then both a car and driver is required. We are improving the car here, we are improving the legislation tonight. Let us also improve the qualifications of the driver that is going to operate that vehicle in the period that lies ahead. So I acknowledge that it is a two-pronged situation but to work only in one area and ignore the other area I think would be an abdication of responsibility.

**QUESTION put.**

**MR. PAWLEY:** Ayes and Nays, Mr. Speaker.

**MR. SPEAKER:** Call in the members. The motion before the House is Bill No. 60, adoption on third reading.

**A STANDING VOTE was taken the result being as follows.**

**YEAS:** Messrs. Adam, Axworthy, Barrow, Bostrom, Boyce, Burtniak, Cherniack, Derewianchuk, Desjardins, Dillen, Doern, Evans, Gottfried, Green, Hanuschak, Jenkins, Johannson, G. Johnston, Malinowski, Miller, Osland, Patrick, Paulley, Pawley, Shafransky, Toupin, Turnbull, Uskiw, Walding.

**NAYS:** Messrs. Banman, Bilton, Blake, Brown, Einarson, Enns, Ferguson, Graham, Henderson, F. Johnston, Jorgenson, Lyon, McGill, McGregor, McKenzie, Minaker, Sherman, Spivak, Steen.

**MR. CLERK:** Yeas 29; Nays 19.

**MR. SPEAKER:** In my opinion the Ayes have it and I declare the motion carried.

### **BILL (NO. 72)— AN ACT TO AMEND VARIOUS ACTS RELATING TO MARITAL PROPERTY**

**MR. SPEAKER:** The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** Mr. Speaker, when Bill No. 72 came into this Chamber for second reading, I think at that time I expressed my concern, personal concern, about what would happen to the rights of children with the passing of the various Acts that are contained in this piece of legislation. I think it doesn't serve any useful purpose, Sir, to reiterate at this time those concerns. Those concerns are still there and having expressed them once, I won't refer to them again. However, we do realize, Sir, that in the passing of this bill, it refers to several Acts, the implementation of which are necessary for the will of the government to be expressed in Bill 60 and 61. While we have expressed concern about Bill 60 and 61 on other occasions here, having seen both those bills passed, I think that we have to pretty well accept the passage of this bill. So we will be supporting this bill.

**QUESTION put, MOTION carried.**

**MR. SPEAKER:** The Honourable House Leader.

**MR. GREEN:** Mr. Speaker, I am proposing that we take Bill No. 88 out of the Law Amendments Committee and have it moved to Committee of the Whole House with the other bills that are to go to Committee of the Whole House.

Mr. Speaker, I would move, seconded by the Honourable the Attorney-General, that Mr. Speaker do now leave the Chair and the House resolve itself into a Committee of the Whole for consideration of Bills No. 40, No. 84, No. 87 and No. 88. **MOTION presented and carried** and the House resolved itself into a Committee of the Whole to consider Bills No. 40, 84, 87 and 88, with the Honourable Member for Logan in the Chair.

### **COMMITTEE OF THE WHOLE HOUSE**

#### **BILL (NO. 84) — THE STATUTE LAW AMENDMENT (TAXATION) ACT (1977) (2)**

**MR. CHAIRMAN:** Bill No. 84, The Statute Law Amendment (Taxation) Act (1977) (2). Is it the will of the committee to proceed page by page? (Agreed) (Bill No. 84 was read page by page and passed.) Bill to be reported? The Honourable Leader of the Opposition.

**MR. LYON:** Mr. Chairman, just one brief comment, a comment that used to be made by the former Member for Lakeside, Mr. Campbell, when he was in this House and it is probably worth making for the record lest any visitors or others reading Hansard think that we are not attendant to our duties. This bill is a bill that has been reviewed Section by Section by all of the members as a result of the

Friday, June 17, 1977

explanatory sheet given to us by the Legislative Counsel. We were able to pass it page-by-page because we have checked every section of it and I know the honourable members opposite have as we have in the Opposition. I merely put that fact on the record lest anyone construe that we are rushing through something that we haven't looked at.

**MR. SPEAKER:** Shall the Bill be reported? Pass? (Agreed)

**BILL (NO. 87) — THE HOMEOWNERS TAX AND INSULATION ASSISTANCE ACT**

**MR. CHAIRMAN:** What is the will of the committee? Page-by-page? (Agreed) (Pages 1 to 3 of Bill No. 87 were read and page-by-page passed.) Page 4. The Honourable Minister of Finance.

**HONOURABLE SAUL A. MILLER (Seven Oaks):** Mr. Chairman, you may recall I indicated to the House there would be amendments and I indicated that these amendments were prepared by legal counsel in consultation with the Municipal Assessment Branch of the Department of Municipal Affairs as well as the City of Winnipeg assessment people. It has been distributed. It is very lengthy. Shall I read it or can it be considered as read?

**MR. CHAIRMAN:** Is it the will of the House that it be printed into the record as moved by the Honourable Minister of Finance? (Agreed)

**MR. MILLER moved:**

THAT clause 1(g) of Bill 87 be struck out and the following clause substituted therefor:

(g) "Solar heating assessment" means a solar heating assessment made in accordance with Section 9.

**MOTION presented and carried.**

**MR. MILLER moved:**

THAT Part II of Bill 87 be struck out and the following Part substituted therefor: PART II — TAX REDUCTIONS FOR SOLAR HEATING Solar Heating Assessment. 9. Where the principal residence of a taxpayer is equipped with solar heating equipment used for heating the principal residence, the assessor of the municipality in which the principal residence is situated shall, in addition to making the normal assessment in respect of the principal residence, determine whether the assessment of the principal residence would be reduced if the principal residence was heated solely by the type of heating equipment that is most usual in the neighbourhood of the municipality in which the principal residence is situated, and, if, in his opinion, the assessment would be reduced if that were the case, he shall make a solar heating assessment for the principal residence which shall be the amount by which, in his opinion, the assessment would be reduced if the principal residence was heated solely by the type of heating equipment that is most usual in the neighbourhood of the municipality in which the principal residence is situated. Note of Solar Heating Assessment on Assessment Roll. 10. Where the assessor makes a solar heating assessment in respect of a principal residence of a taxpayer, he shall make a note on the assessment roll opposite the assessment for the principal residence indicating the amount of the solar heating assessment for the principal residence. Levying of Tax Where There is Solar Heating Assessment. 11. Where the assessor of a municipality has, under Section 10, made a note on the assessment roll opposite the assessment of a principal residence of a taxpayer indicating the amount of the solar heating assessment, the municipality in which the principal residence is situated shall assess and levy taxes on the principal residence as though the true assessment of the principal residence were an amount equal to the normal assessment of the principal residence reduced by the amount of the solar heating assessment for the principal residence and shall, on or before November 30 in each year, notify the Minister of the difference between the taxes assessed and levied in that year against principal residences in the municipality in respect of which solar heating assessments have been made and the amount of taxes that would have been assessed and levied in that year against those principal residences if taxes had been assessed and levied against them on the basis of the normal assessment. Compensation by Government. 12. Where the Minister receives notice under Section 11 of the difference between taxes assessed and levied by a municipality in a year against principal residences in the municipality in respect of which solar heating assessments have been made and the amount of taxes that would have been assessed and levied by the municipality in that year against principal residences if the taxes had been assessed and levied against them on the basis of the normal assessment, he shall forthwith request the Minister of Finance to pay, and the Minister of Finance shall pay, the amount of that difference to the municipality. **MR. CHAIRMAN:** The Honourable House Leader.

**MR. GREEN:** Mr. Chairman, maybe I'm being a little bit over-technical but I'm merely concerned that the sheet that is being dealt with by the Clerk is the same as the sheet that was distributed and looked at by the Leader of the Opposition, so that there is no problem as to what is being distributed. Can you just check his amendment with the one that you've got just to identify that the one that goes into the record . . .

**MR. CHAIRMAN:** The Honourable Leader of the Opposition.

**MR. LYON:** Yes, Mr. Chairman, the proposed amendment that I have appears to conform with the

amendment word for word with what the Deputy Clerk of the House has in his hands.

**MR. GREEN:** All right. Well then it should now be identified by the Clerk as the one that is going into the record.

**MR. LYON:** My only request would be for the Minister to give a brief explanation of what changes there are.

**MR. CHAIRMAN:** The Honourable Minister of Finance.

**MR. MILLER:** Well, Mr. Chairman, as indicated this deals with Part II and deals with the reductions on solar heating — the assessment on solar heating. Originally in the bill there was going to be what was called the "special" assessments which would include the solar equipment, and then what we considered normal assessment taking into account what would normally be used in a house using conventional heating. So that this still applies.

However, in taking it up with the municipal people it was found that in order to keep the records, the municipal tax rolls, they would prefer to handle it in a somewhat different way. So the wording simply has been changed so that it's easier for them to identify the difference between the actual true assessment, what it should be, the amount of the assessment is going to be charged to the house and therefore the amount that the province would make good to the municipality. That's the essence of the amendments. —(Interjection)—

**MR. CHAIRMAN:** Order please. With the leave of the House, we'll have to go back to Page One because this first amendment is in Section 1. It's striking out the present subsection (g) of Section 1, and substituting the amendment as moved by the Honourable Minister of Finance. Is that agreed? (Agreed)

Section 1(g) as amended—pass; Page 1 as amended—pass. On Page 4 of your bills, Part II is struck out and the new section is 9. Solar Heating Assessment—pass; Page 4 as amended—pass; Page 5—pass; Page 6—pass; Page 7—pass; Preamble—pass; Title—pass. Shall the bill be reported—pass.

### **BILL (NO. 88) — THE STATUTE LAW AMENDMENT ACT (1977) (2)**

**MR. CHAIRMAN:** Bill No. 88, The Statute Law Amendment Act 1977(2). What is the will of the committee, to proceed page by page or clause by clause?

**MR. GREEN:** It's a statutory law amendments bill, Mr. Chairman. The clauses do not run into each other so deal . . .

**MR. CHAIRMAN:** (Clause 1, Subsection 5(1) to Clause 12 of Bill No. 88 were read and passed.) Clause 13. The Honourable Leader of the Opposition.

**MR. LYON:** I understand that this adds to the list of private schools contained in Schedule C, a number of private schools which had previously not been listed. I was wondering if I could ask the Minister of Education, who doesn't appear to be here, the basis upon which these schools are being added. That is, what are the criteria by which these particular schools are added to the list — not that any objection is taken to them; we just want to know what the criteria are.

**MR. CHAIRMAN:** The Honourable House Leader.

**MR. GREEN:** Mr. Chairman, I can't give the member the exact criteria. I understand that they are criteria by which it was felt schools were originally included in the list. Some have now been excluded from the list and some new ones are added to the list, but my understanding of it is that it's done on the basis that they were considered to fall in the same category as schools that previously had received shared services.

**MR. LYON:** They have to qualify for it.

**MR. GREEN:** Yes, they are not necessarily getting it. They qualify for it and then have to get it. I understand that the Department of Education will be reviewing and trying to make more knowledgeable the criteria under which this has been done at all times, and that it would be more satisfactory than adding schools and dropping schools from the list; that it might be better to clarify what the criteria are and then schools can be added or dropped on that basis. But I am advised that it is adding schools that would have been added if they were in existence when the criteria were originally issued for shared services. The difficulty that the honourable member raises is exactly what I referred to before. There will be an attempt, I understand, by the Department of Education to have the criteria so objective that a school meeting those objectives can merely — you use the word "click" in — be eligible by virtue of those criteria. But I cannot give him at this moment those criteria.

The same point has been raised and is a concern and therefore there is going to be an attempt to have them made more definitive to meet with what the honourable member has just asked. But in the meantime, the only schools that are eligible are those that were contained in a schedule. I think the honourable member would agree that that should not determine eligibility, that there should be more objective terms and it should be available to anybody who meets those objectives.

**MR. LYON:** Mr. Chairman, we all agree that it is a good program and the only thing that is being questioned is the eligibility and the means of eligibility. Perhaps it might be possible, before we get to third reading, if there is any further elucidation that the Minister could give us, he could maybe give a

brief explanation at third reading. Not that I doubt my honourable friend's explanation at all but I know that he is maybe a bit at sea as I am in asking the question.

**MR. GREEN:** Well, that's possible, Mr. Chairman, but the fact is that the same kinds of questions that the honourable member asked were asked at the time that we were dealing with this ourselves, and it is a matter in which, as you know, some of us have a particular interest in. There was a discussion as to whether the criteria and objectives should be made more objective so that there wouldn't have to be schedules, but that the criteria would be made available. At the moment, I don't think that the Minister would be able to give you much more than I gave you. I don't think so; if he comes in then maybe that will be available.

**MR. CHAIRMAN:** (The remainder of Bill 88 was read and passed.)

### **BILL (NO. 40) — MAIN SUPPLY**

**MR. CHAIRMAN:** Bill No. 40. Page by page or clause by clause? Page by page. (Page 1 to Page 5 of Bill No. 40 were read and passed.) Page 6. The Honourable Leader of the Opposition.

**MR. LYON:** Mr. Chairman, Page 6 refers to . . .

**MR. GREEN:** Mr. Chairman, I don't wish to be either deliberately or inadvertently misleading. I understand that the list that has been prepared is a list of schools that was given by an association of private schools but it doesn't entitle them to shared services until they are approved by the Department of Education. It makes them eligible to receive it but doesn't make them eligible to receive it. I think that I answered I understood that the criteria was the same as the criteria previously established. I am advised that the list was given by an association of private schools but doesn't entitle them to shared services until they are approved by the Department of Education.

**MR. LYON:** Mr. Chairman, work out an agreement with a school division . . .

**MR. GREEN:** Absolutely.

**MR. LYON:** . . . pursuant to the statute.

**MR. GREEN:** The correction I want to make is that I thought they were the same criteria as used when the original list was established, and that apparently is not the case.

**MR. CHAIRMAN:** The Honourable Leader of the Opposition on Page 6.

**MR. LYON:** Mr. Chairman, on Page 6 we have an item dealing with the Department of the Attorney-General, and this, after some delay, would no doubt be an appropriate time to discuss at the committee stage the question of the administration of justice in this province and the buffeting that that concept has taken over the last several months, or year and a half, with respect to one case affecting a former judge of the Provincial Court of Manitoba.

It is not my purpose tonight, Mr. Chairman, to read editorial comment, or other comment, that is made about this particular affair. Recently the Winnipeg Free Press carried an editorial entitled "Public Confidence," which is germane to the discussion we have in front of us tonight. What we have to discuss' Mr. Chairman, has to do with the way and the manner in which the present Attorney-General of Manitoba, and to some extent his predecessor, have dealt with this particular matter. And, may I say at the outset, that I make no reference to the judge in question, to his lifestyle, to any particular disability he may suffer from the use of alcohol or whatever; what I would like to confine my remarks to is the manner in which the Attorney-General, as the chief law officer of the Crown, has seen fit to deal with this. Comment has been made in other publications to the effect that the judge in question was a previous candidate for the New Democratic Party. That by itself, Sir, does not disqualify the man for appointment to the bench; if it did, we would have no judges, on the high courts of this province or anything else. So I find no fault with my honourable friends, in the early months of their office, in appointing a man who formerly was a member of the New Democratic Party.

But, Sir, it is at that junction that the problem begins, because we have information to the effect that the then Attorney-General of Manitoba, the previous colleague of the present Attorney-General, did refer certain names to the Law Society of Manitoba, and asked the Law Society of Manitoba for comments as to the suitability for appointment of these particular men to either the Magistrates or the Family Court. As we are led to believe, some six names were submitted; amongst those names was the name of the provincial judge in question whose case was later referred to the Judicial Council and who, before that hearing took place, resigned from the bench so no judicial council hearing ever took place with respect to the evidence that had been gathered by the Attorney-General and by the investigation officers authorized by the Crown.

We have information which purports to show, Mr. Chairman, that, of the six names that were referred to the Law Society of Manitoba back in the fall of 1969 — I won't deal with the others in question — but the name of the particular judge who has been the subject of controversy in recent years, according to information that is generally accepted as being factual, and if it isn't the Attorney-General of Manitoba at the present time can confirm whether or not such a letter was received I can tell him that the date of the letter, of which we have advice, is October 10th, 1969; it was a confidential letter from the Law Society of Manitoba, purported to be signed by the Secretary of the Law Society

of Manitoba. And with respect to the judge in question, Mr. Chairman, when it came to the qualification as to whether or not he should be appointed to either a Magistrates Court or to a Family Court, the Law Society is reputed to have reported to the then Attorney-General that the man in question was not qualified for the Magistrates Court and was not qualified for the FAMILY Court. Now, if my information is wrong, Mr. Chairman, I will take my seat and let the Attorney-General explain in what particular that information is wrong.

I take it then, Mr. Chairman, that the Attorney-General is confirming that such a communication did exist and that that was the advice that was received from the Law Society of Manitoba with respect to the judge in question.

The man in question, Mr. Chairman, was then appointed by ORDER IN Council of the Government of Manitoba to the Magistrates Court, as it was then called — later that court was, by Act of this Legislature, changed into the Provincial Judges' Court — and then carried on his responsibilities in that judicial capacity for a number of years. Information then, apparently came to the Attorney-General from sources that we are not aware of, as to the conduct of that person in question, and the Attorney-General caused an investigation to be made and caused the information from that investigation to be transmitted to the Judicial Council which was a *quasi-judicial* body that had been established under the Judges' Act, to look into questions of the suitability of judges to hold office where some serious question as to their deportment on the bench arose. The information, according to questions that were asked of the Attorney-General last year, was gathered by all means of detection, by wiretap, by telephonetap, by the usual police investigations and so on. — (Interjection) — Pardon? I'm sorry I don't catch the . . .

**MR. CHAIRMAN:** The honourable member state his point of order.

**MR. BARROW:** Well, the point of order. Why the vague insinuations; why not name names and get it out in the open?

**MR. CHAIRMAN:** No point of order.

**MR. LYON;** Well, Mr. Chairman, I don't know if my honourable friends were present at the beginning or not, but what I said to the Committee at that stage was that it is not the conduct of the particular judge in question that is an issue tonight, it is the manner in which this question has been dealt with by the Attorney-General. I don't think there is any question in anyone's mind that we are speaking about former Judge Pilutik. I'm sure there is no question in the mind of the Attorney-General that that is the question about which we are speaking at the present moment.

Under questioning by members of the Legislature in February of 1976, and I am quoting now from Page 31 of Hansard of that year, the present Attorney-General is reported to have said as follows: "Mr. Speaker, in reflection I would like to refer back to the question asked of me by the Honourable the Member for Birtlerssell; I think it deserves an answer now so that until such time as I have given a more complete response there isn't any misunderstanding developed by a lack of response. There is no evidence, Mr. Speaker, that was presented to the Judicial Council, or that we had accumulated, to indicate that any conduct on the part of Judge Pilutik would have influenced improperly, would have influenced any cases decided up until the time of the referral."

Now, Mr. Chairman, after the Judicial Council saw fit not to proceed with the hearing, by reason of the resignation of Judge Pilutik which occurred a matter of a day or so before the council was ready to begin its hearing, we have lost track, in effect, of what happened to that evidence, because we find — and I am trying now to boil down what would otherwise be a much longer statement on this — we find that the Attorney-General in subsequent comments that were made in Hansard of last year, indicated that the evidence that was referred to the Law Society of Manitoba, having to do with — the conduct of the former judge as a lawyer, was separate and distinct from the evidence that was being referred to the Judicial Council with respect to any alleged improprieties in his conduct as a judge. That is the way I read the answers of the Attorney-General last year, and if the Attorney-General disagrees with that assessment of his answers of last year, of course, he is free to say so when he makes comment in the course of this debate.

The Law Society then became seized of the limited evidence, as we understand it, which was provided to the Law Society by the Attorney-General, and then proceeded through its various committees to hold hearings under the disciplinary provisions of the Law Society Act, to determine the suitability of the former judge to continue as a member of the Law Society of Manitoba. And, of course, the report of that committee was made public only recently, and it was on that occasion that the question was raised by way of a motion to adjourn the House, because it then did raise very serious questions as to what evidence the Attorney-General had referred to the Law Society of Manitoba; and why it was that on the receipt of the report of the Law Society of Manitoba, the Attorney-General then saw fit to say that he would have to review the evidence again to see if there had been acts which amounted to criminal acts, after having said, from the quotation, and from other quotations of a year before in Hansard, that no such acts existed, or no case for prosecution did, in fact, exist.

The question, very simply, Mr. Chairman, is whether the Attorney-General did review all of the

Friday, June 17, 1977

evidence, that is the evidence that was to be presented to the Judicial Council, as well as the evidence that was presented to the Law Society, and why there was that surprise on his part when the Law Society Report came out, acknowledging that there had been a course of conduct which caused, in turn the former judge to be stricken from the records of the Law Society for a period of some 30 months. The Attorney-General made comment at that time, that there was new evidence that he was not aware of which led many many people, in the Law Society and outside of the Law Society, and among the general public to question, really the degree of knowledge or interest or care, that the Attorney-General of Manitoba had taken with respect to all of the evidence that was available on this particular matter.

I think it is readily understood and would be readily agreed by all, Mr. Chairman' that the Law Society of Manitoba is not an investigative arm of the Government of Manitoba or of the Attorney-General's department. The Law Society of Manitoba is a professional governing body; one of its responsibilities is to make sure that the conduct of those who are called to the Bar, either as barristers or solicitors in this province, conduct themselves in a manner that is in keeping with their responsibilities, their statutory responsibilities, under the Act, and to the people of Manitoba. It is passing strange, Mr. Chairman, that the Attorneygeneral could be heard to say, after receiving the report from the Law Society of Manitoba, that it purported to present evidence to him that was not previously available to him from the RCMP, from all of the methods of evidence detection that obviously, or presumably have been used, with respect to formulating a case that would be brought before the Judicial Council. Because, in effect, Mr. Chairman, if we can believe, as I trust we can, the statements made by the Attorney-General last year, only selective evidence from his overall investigation was presented to the Law Society of Manitoba, not the total brief as presented to the Judicial Council. And that is an assumption that we have to make, based on the statements of the Attorney-General himself, because, of course, no one other than the Attorney-General or the members of his staff, or the Registrar or the Secretary of the Judicial Council will know, in effect, the evidence that was presented to that Judicial Council.

So, we come very quickly to the point, Mr. Chairman, which is this. The Attorneygeneral, I think, is under, not only a legislative obligation, but he is under a statutory obligation, as the chief law enforcement officer of the Crown, to account for his conduct in this case, which has caused a considerable amount of erosion of confidence in the administration of justice, because of the way he appears to have shilly-shallied with respect to this case. Now, either there was a case or there wasn't a case, and the Attorney-General had it within his power to make sure that the proper investigation was done and not to try to take himself off the hook as he attempted to do the other day in the newspapers, by saying, "Ah; this is all new to me." Well, it couldn't have been all new to the Attorney-General; he must have known from Day One, after the total investigation report reached his desk as to the nature of the complaints against the former judge, as to whether or not, on the advice of the law officers of the Crown, those complaints formed substance for any charges; and if they did not, as he reported last year why is he today reviewing ' those charges to see whether they do form the basis of complaints. In other words, what is going on in the Attorney-General's department, under the leadership of the present Attorney-General of Manitoba, with respect to the administration of justice? Surely there can be some finality to these cases, surely there can be some reassurance to the public of Manitoba that the Attorney-General not only knows what his responsibilities are, but is prepared to carry them out without fear of favour. And that is really all that the people of Manitoba are asking of the Attorney-General of Manitoba at the present time, and if he is not able, or if he is not competent to carry out that responsibility, why then the Premier of this province obviously has a bit of Cabinet shifting to do — obviously has a bit of Cabinet shifting to do in order to . . . — (Interjection) —

**MR. CHAIRMAN:** Order please. ORDER PLEASE.

**MR. LYON:** Mr. Chairman, I have not attempted to read all of the responses that were made by the Attorney-General to this House last year; I am quite prepared to do it. No one has suggested they weren't truthful. What I am suggesting tonight is that the the Attorney-General has backed off from some of the statements that he made last year and is now saying that there is new evidence of which he is unaware, and rather than read through all of these reassurances that were given to the House last year I asked the Attorney-General to make an explanation in his own words; I will be sitting down shortly and he will be able to do that.

But, I conclude, Mr. Chairman, these remarks merely by pointing out to the Attorney-General that he has an unfulfilled statutory obligation to this House, and to the people of Manitoba, to account for the different approaches that he has taken with respect to this case; to give an accounting of, not only the actions of his department but the actions of himself — and to let the House and the people of Manitoba know whether, in fact, the review that he says he is presently conducting, based on the Law Society Report, does engage a review of the activities of other law officers of the Crown or other investigative arms utilized by the Attorney-General's Department. In other words, to give a frank and open report to the Legislature of Manitoba on the situation as it is today and explain, if he can, the attitudes, the positions that he has taken in the past which seem to be totally contrary to arriving at a



Friday, June 17, 1977

final position on this matter, a matter which has been allowed to bleed on and on, thereby causing considerable erosion in public confidence in our courts, something that neither the Attorney-General nor any one in this House wants to happen. He may try to say that that isn't happening but I suggest that if he consults with members of the Bar, if he consults with even members of his own department, he will find that that is the attitude that is developing because of the manner in which he has handled this case. —(Interjection)—

Well, I know something about the present Minister's department because I had the pleasure to serve in it for a good number of years and I had the pleasure to be the head of the department for a good number of years and it was and, to the best of my knowledge, still is a good department. But I would like the head of that department to explain why we have seen this kind of shilly-shallying on this case and to give an account to this House and this being the first opportune moment that we have been allowed to hear this account from the Attorney-General because, of course, the ruling of Mr. Speaker the other day which was not challenged, did not permit this matter to be debated any earlier. The fact that Bill No. 40 has not been called until this time is no responsibility of the Opposition. That is the responsibility of the House Leader, that we are here at 20 to 1 in the morning discussing something as crucial and as important as the administration of justice and the factors brought out in this case.

**MR. SPEAKER:** The Honourable Attorney-General.

**MR. PAWLEY:** Mr. Chairman, first I want to sincerely thank the Leader of the Opposition for raising this matter because I wanted the opportunity to deal with it. I would have in fact enjoyed the opportunity even the other day to have had an opportunity to deal with this matter in detail so I sincerely want to thank the Leader of the Opposition for raising this tonight. It gives me an opportune situation, I think in the proper setting, in order to deal with the allegations which I will say I think the Leader of the Opposition has posed very fairly to me and do require as full an explanation as I can possibly provide.

I only want to say that there is one aspect that I felt was somewhat unfair and that was suggesting that people within the Department of the Attorney-General share any of this inference that people within the Department of the Attorney-General share a criticism for the way in which the present Attorney-General is handling this matter because I am not aware of any such criticism. Probably I would not be aware of it but I do not think that there is any such impression, feelings of disloyalty at all within the department. The morale is very good and I find that the feeling is very solid on this particular issue. Before I commence my remarks, I am just wondering if the honourable member was suggesting there was that feeling within the department. **MR. LYON:** I was suggesting, Mr. Chairman, to be equally fair to the Honourable the Attorney-General that if he were to consult frankly with all members of his department he would find that there is concern about this matter.

**MR. PAWLEY:** Well, the honourable member obviously has heard from someone that has naturally not voiced his opinion to me but I do not think that is shared at all within the department.

Before I commence, I would like to deal with one item because I am not going to go back into the period 1969-1970 but I think because of the accusations involving patronage that it would be only fair if I should read very quickly to this House the names of the Provincial Judges that have been appointed since 1973 and I want to advise the honourable member that I take full responsibility for the appointment. I cannot guarantee that at some point in the future, some appointment is not going to work out properly and I am sure that he, too, cannot guarantee that any appointment which took place during the tenure of his office might, at some point, not work out as had been anticipated.

**MR. LYON:** To clear his mind on the question of patronage, I think if he will recall my remark, I made no criticism whatsoever about the fact that a member of the New Democratic Party or a former candidate of that party was appointed to the bench.

**A MEMBER:** Others have.

**MR. LYON:** None at all.

**MR. PAWLEY:** But others have, and there has been editorial comment so I feel I should deal with that tonight because there is the impression that has been created and not by the Leader of the Opposition but in an isolated fashion, sometimes by innuendo that there is wide spread patronage involved in the appointment of our Provincial Judges.

I would like to read and I want to also mention one point and the Law Society has not criticized me for this. I have assumed responsibility for my appointments and sometimes I have consulted with others. I have not consulted with the Law Society in the manner that the honourable member described as having taken place in 1969 because I think I must assume that responsibility and I have not, except sometimes in a verbal way, consulted with any individuals in respect to these appointments. But I am proud of the calibre of these appointments and I want to read them out prior to my entering into the other areas.

Judge Ashdown, John Lewis Bowles, Sidney Cohen, Howard Collerman, Arnold J. Conner, David Copleman, Graeme Garson. By the way, I should mention to the honourable members that back in 1965, Graeme Garson ran against myself as Liberal candidate in the old Federal constituency of

Friday, June 17, 1977

Selkirk. Graeme Garson, by the way, was appointed to replace Judge Pilutik upon Judge Pilutik's resignation so certainly that was not a political appointment. Judge Garson in fact beat me out by a few votes in the 1965 Federal election for the constituency of Selkirk.

Brian Dayle Giesbrecht, Julien Rudolph Glowacki, Raymond Hamilton Harris, Edwin Charles Kimelman, Theodore Joseph Lismer, George H. Lockwood, Ronald J. Meyers, Rodney H. Michael. — (Interjection)— Yes, that's what I gather. Charles Nathan Rubin, — and I believe he appointed as a part-time during the time of the . . . Manly S. Rusen, Jacob Walker.

Now I only read those appointments so that it is very clear that the appointments — and I think anyone would agree on the basis of the reputation of the individuals that I named — that they have not been political, they have been based upon merit and I think we've been very fortunate with the list of appointments that we have been able to make in the past four years.

Now one more point I would like to clear up by way of fact. The Law Society received all information that was in the Department of the Attorney-General regarding the investigation with the exception of transcripts of wire-tap evidence which they agreed would be contrary to the provisions of the Criminal Code if it was released. I would like to table a letter acknowledging that fact from Mr. Richard Scott of the Law Society.

The Leader of the Opposition raised certain questions pertaining to the fact that when the Law Society released its report, I had expressed surprise and had indicated that I had not been aware of some of the allegations referred to in the Law Society report and had expressed the view — correct me if I am wrong on my interpretation of what the Leader of the Opposition said — that I had expressed the surprise, the surprise in respect to some of the information in the Law Society report and had indicated that some of that information was new to me. Let me advise the Leader of the Opposition that remains my statement today as it did a week ago.

I would like to deal specifically with some of these points. By way of background, I would like to advise the Leader of the Opposition that I have met with representatives of the Law Society and they are in the process of reviewing some of the information which they had with representatives of my department so that comments that I am making this evening are based upon preliminary information. I am sure the Law Society will, after they have completed their review, will be able to comment some further in connection therewith.

One, dealing with "criminal." The Leader of the Opposition expressed the surprise that I would have been unsure and would have requested a review in connection with the criminal aspects. There was a one-month period in which the department gathered together material in its reference to the Judicial Council and I am not going to burden members with the fact that there was a very clear statement from the RCMP and the City of Winnipeg Police, as well as senior people in my own department, plus a special prosecutor that was appointed by the department, that there was no crimes that had been committed.

There was one aspect, one allegation in particular that concerned me in respect to the Law Society memorandum and I want to just mention to the Leader of the Opposition that the Law Society memorandum reached the hands of the media before it reached myself. It reached the hands of the media on a Friday; it reached myself the following Tuesday or Wednesday so that I was called by the media. I had not had an opportunity to properly peruse the memorandum although it had been provided to me a short time before the call to me by a me

er of the media. There was one allegation dealing with the speeding ticket that had concerned me in respect to the particular wording within the Law Society allegation. I checked as to why that allegation would have surprised me. I am advised that the particular allegation that had earlier been unfolded and had been referred to the Law Society had been incomplete and had been completed later by further investigation so that the wording in the Law Society memorandum in respect to that issue dealing with the speeding ticket stay was worded differently because of further investigation that had been completed between the time that I had received my information earlier and when the Law Society had received their information.

But beside that, the fact is — and I have requested a special prosecutor again to review that particular item along with one dealing with a firearm which again was different because of additional information that was obtained and the special prosecutor again confirms — and I table a letter in the House — confirms that on the basis of his review, there is no basis for criminal charges of any type.

Interestingly, the special prosecutor also mentions the fact that although he does not require the confirmation, it is interesting to note that the Judicial Council of the Law Society not only said that there was no criminal element within the allegation, but they further mention that there is no dishonesty insofar as the allegations that they provided. No dishonesty, no criminal element within the allegation. The Law Society memorandum states that very clearly. I am only prepared to say that there is no criminal element insofar as the allegations are concerned. So I want that to be very clearly placed on the record.

Now, the further additional information. The further additional information that also concerned me, of course, and what has brought about much of the existing concern and it is understandable

**Friday, June 17, 1977**

concern and I share that concern very much, is the references that have been made throughout the Law Society Report that have been made throughout the Law Society report to court party and police officers. On the basis of the information which I had which was turned over to the Law Society, there was insufficient basis for a sweeping condemnation either in the reference to the airplane or in the reference to Berens River or in reference to the federal accommodations for that type of sweeping indictment. The Law Society advised me that they are reviewing their files in this particular respect and therefore I do not want to prejudice them insofar as a report that I am sure they will further provide.

Except I want to deal with one of those three items that I think I can very well illustrate tonight as one in which the Law Society I am sure will want to consider a modification in their report. Insofar as the Berens River incident, there is an allegation contained in the Berens River incident that it is suggested that the former judge poured out liquor in glasses on the dock to the court party and to police officers. This concerned me because in the same allegation it said that this was taking place in the presence of local inhabitants who were observing this on the dock. Now, I wondered because certainly I did not have information to that effect nor did the department. The information that we had within the department certainly did not warrant that type of allegation. I just want to report to the Leader of the Opposition that I had a discussion with Deputy Commissioner Wardrop of the RCMP today who expressed earlier this week great concern, great concern, in respect to this allegation because it reflected upon the RCMP of this province. He launched an immediate inquiry as to this. His information to me today is to the effect that a constable approached the former judge as he commenced to pour the liquor into cups, cautioned him, and the judge put the liquor away, that the court party and the police were not involved. The court party and the police were not involved as in the Law Society memorandum. Now, I want to indicate at this point and I don't want to be unfair to the Law Society until they have released their information, but I understand that some of their references to the court party and certainly in this case, to court party and police officer, was based principally on the information provided to me by the former judge himself. I find it very unfortunate, Mr. Chairman, the way this has been bandied about as though the police force, because of this particular incident referred to in the memorandum, has some way or other become very decadent and out of control and the Attorney-General has to be held principally responsible for this. Let me say that the RCMP immediately at the beginning of the week expressed concern about the reflection that was cast upon their force' and they launched an enquiry immediately and this is the information which I have received today.

There are two other incidents referred to involving court parties. The one dealing with the plane — and I can tell the Leader of the Opposition there is nothing within our information to indicate that there was — I'm thinking of what the words were that it was not uncommon for the court party to often drink to excess in trips up north on a government plane, I believe it was, and leave the plane in a mess. Well, I suppose it's a question of degree in the judgment of each person, just how serious that allegation would be in any respect. But I advise the Leader of the Opposition that there is nothing within the information that was available to our department to substantiate that allegation, and that the words, "often," "uncommon," and "excessive drinking" cannot be applied in recognition of the information which we had in our files.

The third item dealing with the federal accommodations, the Chief Provincial Judge has already spoken out on that publicly. He spoke out on that particular allegation on Monday and I quote his words, "The court party was involved only because the former judge was involved and the principal concern was in respect to the former judge." I am quoting now Provincial Judge Gyles, the Senior Provincial Judge, who I believe was appointed during the term of office of our friends opposite. That comment is in Monday's Tribune and if the Leader of the Opposition has a clipping file there, he will find that there. I don't want to deal further with those points until the Law Society have been given a fair opportunity to review these three aspects, because they may have information which was not supplied to them by ourselves, because I do know that they did a certain amount of independent investigation work. And by the way, they had one year in order to investigate, we had only a one-month period to prepare for the Judicial Council in order to do our investigation. So it can be that the Law Society has independent information that they obtained. I want to be fair to them until we hear from them.

But I want to say to the Leader of the Opposition that number one: the allegation that all the information that the Law Society has in respect to these allegations was handed to them by our department in order that they could base their conclusions on material supplied to them by our department is not correct, that the information that we provided to them could not have caused them to reasonably arrive at those three allegations that I make reference to that involve court parties and police officers, could not. So in order for them to arrive at those allegations it would mean that they would have to have had additional information that was not supplied to them by our department and certainly in the instance of Berens River, I know it to be incorrect and I'm sure the Law Society will be the first that will want to correct that situation because it certainly has caused tremendous unease

**Friday, June 17, 1977**

insofar as police forces are in this province, that they should have been included in that type of scatter-gun reference, on possibly only the word of the former Provincial Judge himself. We will see what occurs as a result of their review of the other two items. So, dealing with criminal aspect, the firearm and the speeding ticket, the information which was turned over to them by myself in that respect was further added to as a result of further information that they received. But since I have — and I think it was only responsible on my part to ensure because I know, and I'm not saying that it would necessarily occur within this House, but I know there are those within this province who would like to suggest that this Attorney-General, the government is trying to prevent the laying of criminal charges — trying to cover up. That's why I wish to file that letter from our chief prosecutor on this case, who I'm not aware of as one that is carrying an NDP membership card by the way, who confirms the fact that I met with heads of the RCMP and the City of Winnipeg Police because I wanted to hear from them personally a year ago — personally wanted to hear from them that there was no basis for criminal charges.

Now, one other point has been raised in respect to the acceptance of the — did the Leader of the Opposition raise the question of my accepting the resignation of the Judicial Council and thus not going ahead? Was that an issue for him in his comments?

**MR. LYON:** I related that as a chronological fact leading up to the present situation.

**MR. PAWLEY:** I want to put it very clearly on record — I suppose there can be some question of debate — but when the resignation was given under the provision in the Provincial Judges Act which permits a judge to resign, that the resignation was received and our special prosecutor, Mr. Regier attended at the Judicial Council, provided them with the information that the resignation had been received, took no position as to whether or not the Judicial Council could or could not proceed with its hearing. In fact, I think there is legal opinion that they could have proceeded with their hearing but it was within their opinion that they could not proceed. I think that I'm not exaggerating to say that within many legal circles, there was some surprise in that connection because after all the complaints did deal with a period of time in which the individual was a judge. Although I'm not sure really what would have been accomplished if they had decided to proceed, but that was certainly a matter which was in their discretion. They decided in their discretion not to proceed with the hearing. That decision on their part was made by them based upon their opinion as to whether they could proceed or not.

The past president of the Law Society, Mr. Frank Allen, who I think is one of the most distinguished and well recognized lawyers in the Province of Manitoba, the other day was questioned, and by the way I would take his opinion as against Mr. Vic Grant's of the Tribune insofar as legal opinion is concerned. He was asked and I would like to quote from an interview with Peter Warren on the CJOB program, which I happen to have here. . . .

**A MEMBER:** Peter who?

**MR. PAWLEY:** Peter Warren. I want this to go on record. "Peter Warren: There has been some criticism of Mr. Pawley for accepting Mr. Pilutik's resignation for a judge" — Now I don't want to say who accepted the resignation but it wasn't me. If I would have happened to be here, I would have done the same thing" — as a judge, three days before the Judicial Council was to probe the allegations. What do you think of that? Frank Allen: I'm not sure he would have any choice, and I think if Mr. Pilutik wanted to quit he could quit, I doubt if he had any control over that. Peter Warren: But you don't think that that criticism then is valid? I don't think so. I've never read the Judges Act to see whether or not he should have refused that resignation. Peter Warren: Well some senior members of the Law Society think that the Judicial Inquiry should have gone forward. Frank Allen: Well, there is a school of law you know, there are cases for example where doctors have attempted to resign from the medical profession when they are about to be investigated and the courts have held that you can't. But, on the other hand having regarded the judicial committee's powers, I'm not sure about them. Well, that was something that was in their powers to decide upon. It certainly wasn't a dictation from us that they shouldn't proceed. Warren: No, but there is nothing in the world that says anyone has to accept a resignation is there?" He keeps asking, interrogating on this point. "Frank Allen: No, but there is nothing in the world that says someone can't resign either. Peter Aarren: Yes? Frank Allen: So, I'm not sure that that criticism is altogether warranted because I'm not sure that if that Committee would have tried to proceed at that time, it would have served any useful purpose." Frank Allen, past president of the Manitoba Law Society, and I think we recognize him certainly as one of the most competent and able lawyers in the Province of Manitoba.

Now, I would like to and I don't want to be unnecessarily provocative, but I want to just remind members of two things: one, that it was the Attorneygeneral that launched the criminal investigation based upon information, that authorized that criminal investigation in June of 1975, so there was no effort to obstruct or to prevent and it was the Attorney-General that filed the complaints with the Judicial Council. But any citizen in Manitoba, any citizen in Manitoba, the Law Society, any individual lawyer, the Leader of the Opposition himself, anyone who had observed conduct that they

Friday, June 17, 1977

felt was unbecoming a Provincial Judge could have just as well filed complaints with the Judicial Council. I want to tell the Leader of the Opposition that it was this Attorney-General, upon receipt of information along those lines that arranged, after the criminal investigation was complete, that the complaints were forwarded to the body established by statute to deal with questions of discipline pertaining to provincial judges. I think it's fair for me to ask this question — If I had not filed those complaints with the Judicial Council it's possible that that Provincial Judge would still be presiding today. I don't know whether or not anybody else would have filed complaints with the Judicial Council. Because to my knowledge — in fact I can say quite flatly to the Leader of the Opposition — no one had filed any complaints with the Judicial Council pertaining to that Provincial Judge prior to the date that I filed the complaints with the Judicial Council. So it would only be a question of speculation whether, if I had not filed those complaints whether somebody afterwards would have filed complaints. And it does make me just a little annoyed, therefore, when I read an editorial in the Winnipeg Free Press and I don't know who wrote that editorial, trying to suggest some way or other that there was a cover-up, and that some way or other I was trying to sweep things under the rug. There's just no reasonable basis for that allegation and it doesn't do anything for the judiciary in this province, it doesn't do anything for the criminal justice system in this province, it doesn't do anything for the police officers in this province, that that type of inference should be made because there are no facts to back that up and it is incorrect and it is false.

I do have to make this comment tonight because what was the position of the Conservative Party in 1976 in connection. . . I don't want to be unkind. I do feel a little awkward mentioning this, but I think because of the questions that have been posed to me that it's not unfair for me to mention what suggestions I received from the Conservative Party, from the Member for Birtle-Russell who was acting as the official critic of the Attorney-General on April 28, 1976. If the newspaper article was incorrect, then the Member for Birtle-Russell can disassociate himself from the quote and I will accept his word for it. The words are, "Pu Pilutik in dock or behind Oenck — P.C." And it goes on to say, "Conservative legal critic, Harry Graham, insisted Tuesday that charges must be laid against Provincial Judge, Anthony J. Pilutik or he must be offered his position on the Bench again. Attorney-General Howard Pawley dismissed Mr. Graham's demands as irresponsible. He said he has been advised that there's no basis for criminal charges against Mr. Pilutik and I concur. 'I have no intention of reappointing him to the Bench,' he added. Both men were speaking in interviews outside the Legislature." Now I don't know, maybe the Member for Birtle-Russell was misquoted for all I know, but he was giving me two alternatives. Certainly there was no basis from the RCMP, the City of Winnipeg Police, the senior people in my department, from special prosecutor to lay charges against him. In my view, and I think it's now well substantiated by what has unfolded since, it would have been the height of irresponsibility and I think then the Leader of the Opposition would have had a very strong case for my immediate resignation if I had followed the advice that was offered to me last year in this Legislature.

**MR. CHAIRMAN:** The Honourable Member for Birtle-Russell.

**MR. GRAHAM:** Mr. Chairman, just to clarify the record and to put it in the true perspective, I would suggest that the Attorney-General had all of the information at that time which nobody else to my knowledge had. I certainly didn't have the information that was available — information that the Attorney-General was privy to that wasn't made public at all. On the basis of any information that was available to me at that particular time, I think I was quite correct in making the assumption that if the Attorney-General failed to move any further and gave no further evidence, then the man should have been reappointed. But, if he had information that he did not make public, then the Attorney-General himself was not doing justice to the man.

**MR. CHAIRMAN:** The Attorney-General.

**MR. PAWLEY:** I wonder if the Member for Birtle-Russell would then acknowledge that in an interview with the media he indicated that the allegations or the information I had should not be made public, but should be turned over in total to the Law Society of Manitoba.

**MR. GRAHAM:** And did the Attorney-General do that?

**MR. PAWLEY:** Mr. Chairman, there is a letter which is on file which indicates that all the material which by law I could turn over to the Law Society was turned over to them, acknowledged by the Law Society.

**MR. GRAHAM:** Mr. Chairman, I must thank the Attorney-General for following some advice.

**MR. PAWLEY:** I just have to say to the Member for Birtle-Russell, didn't follow his advice. I didn't lay criminal charges, I didn't reappoint him to the Bench, so I find it difficult to accept his thank you.

**MR. CHAIRMAN:** The Honourable Leader of the Opposition.

**MR. LYON:** Mr. Chairman, the Attorney-General has given an explanation of his position vis-a-vis the Law Society report which we appreciate but which still does not explain the nature of the manner in which this case has been allowed to dribble on and on and on over a period of eighteen months. What the Attorney-General has not yet answered, and I appreciate his comments because I've tried to be fair and accurate in the statements that I have made, I would like to hear the Attorney-General's comments with respect to why the judge in question was appointed, after information was sought

Friday, June 17, 1977

from the Law Society of Manitoba indicating that the man was not qualified for either the Magistrate's Court or for the Family Court. **R. GREEN:** Well, Mr. Chairman, I would like to say a few words with regard to this matter, from possibly a little different position. Mr. Chairman, the fact is that when the Honourable the Leader of the Opposition was the Attorney-General of the Province of Manitoba he did not have a procedure whereby he asked the Law Society who he should appoint as magistrate. The fact is that when this government came into power the new Attorney-General, the Honourable Al Mackling, decided that he would try something different with regard to the appointment of magistrates, and I am aware of this and therefore I can speak of it.

I can tell the Honourable Member for Rock Lake that I did not agree with that procedure, but the Honourable Al Mackling thought that there was a higher plane on which this can be done. I did not think that he was right, and still do not think that he was right.

In any event, he decided that he would have a procedure whereby he consulted with various groups, and one of the groups that he consulted with was the Law Society of the Province of Manitoba; a group which I happen to think is the most Conservative-oriented group *vis-a-vis* any legal appointments that could be made in the Province of Manitoba, and frankly, Mr. Chairman. . . — (Interjection) — Small "c", and big "C", and big "L", but not small or big New Democrat.

In any event, Mr. Chairman, the Attorney-General decided to go through this procedure and, after having gone some of the way, decided that it was not the way in which he wanted to appoint magistrates and he appointed magistrates, Mr. Chairman. HE APPOINTED EFERENT MAGISTRATES AND I say, without any fear of contradiction whatsoever, that his appointments were as good or as bad as the appointments that were made by the Honourable the Attorney-General, and by the Honourable Stewart McLean, or the honourable members who appointed magistrates before him.

I say, Mr. Chairman, that we have a peculiar situation involved here with this Tony Pilutik case. The fact is that there wasn't one public charge against Tony Pilutik prior to the Attorney-General deciding that he had information concerning this man's activities, which he decided had to be referred to the . . . No, before he did that he went through a thorough investigation. He went through a criminal investigation of one of his appointed magistrates without any previous question being raised in the House — a New Democratic Party appointment, a former NDP member — and decided that he was going to go into a criminal investigation of that man's activities without pressure from the Member for Birtle-Russell or anybody else. That's why he then got this information and he sent judicial council, as it to the result of which, Mr. Chairman — and I'm going to come to this more fully in a few moments — a young man has been disqualified from being a judge, has been disbarred for a period of three years, has been ruined — for the moment, in any event, and I don't know whether he will ever recover — as a person in the eyes of the community of Winnipeg and in the Province of Manitoba.

And somebody says that the man who did that was not taking action against this person or is shilly-shallying, or is trying to hide something. I am astonished, Mr. Chairman, because I don't think any Attorney-General would have acted more resolutely, more dispassionately, more coldly non-worried about the ultimate outcome and what the results would be, than the Attorney-General of this Province of Manitoba with respect to that person.

I also want to say for the record, Mr. Chairman, that I knew Tony Pilutik — not well but I knew him as a person reasonably well. I saw him from time to time. He was a decent human being. He was a respected person in the community. He was a graduate lawyer. He was in every way a respected citizen. He was the kind of a person who could easily be appointed to the Bench and turn out fine. Mr. Chairman, he was also apparently a human being who had faults and frailties, and has suffered more for those faults and frailties than most people have suffered.

I think that what bothers me most, Mr. Chairman, is the holier than thou attitude that has been taken by certain people in the political field and particularly — and I'm going to get to the Law Society — in the legal field, with regard to the activities of their colleagues and brothers.

Now, if the Attorney-General will tell me that he never appointed a judge — a magistrate — who was in court very often having consumed alcohol with everybody to see it; if he doesn't know it then he is the only lawyer who doesn't know that that is the case. If he is going to say, Mr. Chairman . . .

**MR LYON:** Not only judges; members of the Legislature have been known to do that.

**MR. GREEN:** Exactly. Now, Mr. Chairman, our normal conduct is coming into perspective and this holier than thou notion as to how people live and how they are supposed to walk around and behave is going to be dealt with. Because I, having looked at the material, can come to no other conclusion, despite my feeling for the individual, that it is undoubtedly correct that Mr. Pilutik, regardless of his previous good record, apparently for frustration, for other reasons, for any one of the many hazards that a human being has to go through, fell into a problem that is not unknown to members of this House. And that as a result of that, and as a result of some of his activities, it was obvious that he could not be kept on the Bench, and the Attorney-General acted resolutely, and quickly, and dealt with that matter. And the man resigned.

Friday, June 17, 1977

The Attorney-General says that he didn't accept the invitation. Well, Mr. Chairman, I am going to tell you the truth of the matter, that the Attorney-General was out of the city and Mr. Regier walked into my office with Mr. McCaffrey — I knew nothing about the case because I did not want to look at that particular file but I knew that it was being referred to the judicial council — and Mr. Regier said, "Mr. McCaffrey is here to give you, as Acting Attorney-General, this resignation."

I received the resignation; I did not accept it because I couldn't accept it. I received it, physically, and then Mr. Regier contacted the Attorney-General and was told that the resignation would be accepted by him. But the receipt of the resignation, physically, I got it. And I don't know, Mr. Chairman, at that point both lawyers were going to go over to the judicial council and none of us knew . . . Nor did I have an interest in it one way or the other, although I will confess to you a human sentiment that was not in any way expressed or dealt with, that I thought that the man resigned and that that should be it. If that makes me somehow someone who would cover up something, then have it your way. I did nothing about it. I knew that they were going over to talk to the judicial council about it, and I did not know whether the judicial council was going to proceed or not going to proceed. But frankly, I was astonished that the judicial council, which did not exist under the previous government, decided that they were going to conduct that case in public but that was their concern and I made no representations for or against that procedure. But such a procedure did not exist.

The honourable member will recall that during his administration, the Attorney-General got a letter from a member of the Bar — got a complaint from a member of the Bar — saying that one of their magistrates sitting on the Bench said that certain people should be castrated, that certain people should not be allowed bail because if they go out on bail all they do is commit crimes while they're out on bail, that the presumption of innocence doesn't really mean anything, that the prosecution should be conducted by the victims of those people who have been hurt and not the social workers and the do-gooders who came in afterwards. All of these things were said by a magistrate in public under the previous administration and a complaint was received from a member of the Bar.

Now, what should the Attorney-General have done? I'm personally acquainted with this because I was the member of the Bar and I got a letter from Stewart McLean, the Attorney-General, and he said that we cannot deal with what you have raised because that would be interference with the prerogative of the judiciary. The judiciary is entitled to express from the Bench that certain people should be castrated, that people should not be released on bail because it means that they have a licence to commit crimes while they are waiting for trial. —(Interjection)— That's right; that's what the magistrate said.

Now, I don't mind what the Member for Wolseley said. The Member for Wolseley is a lay person. He is not going to be sitting in judgment over anybody and he is not a judge. But if he said it as a judge, would that be something for the Attorney-General not to do something about it? And there was a complaint and nothing was done. Nothing was done. Now, here there was no complaint. There was a public complaint from a member of the Bar and nothing was done.

Now, Tony Pilutik is a human being who has had a problem. He has been punished beyond that which I would ever hope for anybody that I am acquainted with, or for any other human being, one person to the other. They would not want a person to fall into that kind of a position. But it has been done and somehow the Law Society gets into the act. You know I am a member of the Law Society. I know that my conduct *vis-a-vis* my clients is subject to control by the Law Society, that they can disbar me. This man has been punished by the judicial council or as a result of that procedure, and he has been disqualified as a judge. Now the Law Society gets into the act and decides to hold a hearing — not on the way he has been serving his clients, not as a result of any complaint that he has absconded with trust moneys or he has improperly handled a file, or he has delayed activities — but on what, Mr. Chairman? On the fact that the man drinks. There are a hundred lawyers that should be disbarred on that basis. On the fact that the man makes foul and vulgar statements? There are five hundred lawyers who should be disbarred on the basis of that conduct. On the fact that the man in a lodge shoots a gun in the air? Mr. Chairman, I am astonished to know that that is a matter for the Law Society. I am astonished to know that that is a matter for the Law Society.

They say that that conduct should have disqualified him as a judge. He has been disqualified. He has no complaints from any client of his suggesting that his conduct is wrong.

What we have, Mr. Chairman, is that we have an individual who drinks, who likes go-go girls, apparently, who swears, who goes on larks. Well, Mr. Chairman, is the Law Society really saying that the conduct of their profession is such that one lawyer will be disciplined for engaging in such activities?

Mr. Chairman, I know my brother lawyers. I know my brother lawyers and I am astonished to know that my society would discipline me on the basis of those kinds of activities. I am wondering what the Law Society is doing here. Is this normal Law Society activity? Because I don't regard it as normal Law Society activity and I intend to write the Law Society, as a member of the society, trying to find out why they are engaging in this type of activity.

Tony Pilutik has been disbarred as a judge. He didn't even hold a practising certificate when they

Friday, June 17, 1977

suspended him for thirty months as a lawyer. —(Interjection)— What's that?

**ROBERT G. WILSON (Wolseley):** Legal Aid is just as bad.

**MR. GREEN:** Legal Aid is just as bad. Well, maybe they should disbar the Legal Aid lawyers.

Mr. Chairman, I say to you these two things. I say that to my knowledge, and I know it is going to be interpreted as self-serving, and I do not think that I often do this, but from my knowledge of what my colleague, the Attorney-General, has done with respect to this particular case, is that he has acted more resolutely, more dispassionately, more determined in terms of dealing with the problem in the harshest way possible, than any other Attorney-General that I would have known would have done, that there may have been some attempt to soften the approach but that was not the case with what the Attorney-General has done.

I do not believe that I could have acted as tough in that case as the Attorney-General has acted with regard to Tony Pilutik. That's number one.

Number two, that Mr. Pilutik has fallen victim to human frailty is something which I will not judge that I be not judged, but that it is impossible for him to remain as a judicial person. That has been effected by his resignation and I'm sure would have come about if the Judicial Committee had proceeded. That in my opinion — and obviously I differ from my brethren in this — that the Law Society's activities following that particular disbarment, that particular problem, had nothing to do with conduct such as the Law Society normally investigates with regard to a practising solicitor, and if that is the basis upon which they investigate their brethren, then watch out because there will be no lawyers practising in the City of Winnipeg and the Province of Manitoba.

**MR. CHAIRMAN:** The Honourable Leader of the Opposition.

**MR. LYON:** Well, Mr. Chairman, I always the enjoy the Minister of Mines when he is in full flight; whether he is on the topic or not. I don't know if he was in the House when I made my remarks, but I think the Attorney-General can recall this. I said I was not discussing the frailties of the magistrate in question, or of any lifestyle of the magistrate. That is not the question and I did not raise that question at all. —(Interjection)— What I still would like to hear from the Attorney-General or from the Minister of Mines, is why in the face of a recommendation from the Law Society that the man was not qualified to be either a magistrate or a Family Court judge:

(a) why was he appointed, and

(b) is it a fact that the previous Attorney-General forewarned the present Attorney-General, as he is reported in the paper as having said, about the conduct or about what was probably the beginnings of some of the troubles; and if so why was the . . . can we expect that there was no action brought to the attention of the Attorney-General prior to the complaint that he laid before the Judicial Council having had that foreknowledge, if in fact he can confirm tonight the statements that have been made publicly by his former colleague, Mr. Mackling, that he did forewarn the present Attorney-General about the human frailties, about the lifestyle or whatever, of the magistrate in question?

**MR. CHAIRMAN:** The Honourable House Leader.

**MR. GREEN:** Mr. Chairman, I am going to deal only with the first part, and I thought I did. I indicated, Mr. Chairman, and the former Minister of Finance is trying to correct even my memory, that it wasn't that they said that he was not qualified, that they said that others were more qualified or things of that nature, but I am prepared to have it either way: That that was a procedure which the Attorney-General adopted; that he sought the advice of these people; that after he got it he looked at the people whom he thought should be appointed, and that he considered that the Law Society's advice with regard to these people was not as good as his and the Lieutenant-Governor-in-Council's judgment as to who should be appointed. And at the time that Mr. Pilutik was appointed we all regarded him as a decent, well respected in the community, qualified human being who could carry on the activities of a magistrate similar to what we regarded Mr. Bob Kopstein, Mr. Ray Cramer, Mr. Roy Stubbs, Mr. Sam Minuk, a former candidate for the Conservative Party, when we made those appointments, that we regarded them as being qualified people to do the job and we did not have the faith in the Law Society recommendations that the Attorney-General originally thought would be useful to him, they were not considered as useful as he thought they would be, and that was the only reason.

**MR. CHAIRMAN:** The Honourable Member for St. Johns.

**MR. CHERNIACK:** I intend to stay out of this debate, so far anyway, but I would like the Leader of the Opposition to know that I am now about to quote from the record —(Interjection)— I'll wait, Mr. Chairman. I wanted to give the information to the Leader of the Opposition. There's no point in my doing it when he walks out. —(Interjection)—

**MR. CHAIRMAN:** Order please.

**MR. PAWLEY:** I don't know whether I should respond to him, he might not . . .

**MR. CHAIRMAN:** Order please. Order please. Either we're going to have order or we're going to have bedlam in here, and that's what it sounds like sometimes. The Honourable Attorney-General.

**MR. PAWLEY:** Mr. Chairman, in answer to the question of the Leader of the Opposition, I think he already has probably read an answer in this respect. My predecessor, Mr. Mackling, spoke to Mr.



**Friday, June 17, 1977**

Pilutik in connection with some problem that he was having with drinking, and I don't recall specifically, but I remember that there was some comment of this early in the period of Mr. Mackling.

In 1972-1973 The Provincial Judges Act was passed, and from that point on it was the responsibility of the senior Provincial Judge for the Province of Manitoba to supervise the conduct of judges; and if there were matters pertaining to conduct then those items pertaining to conduct were to be lodged with the Judicial Council.

**MR. CHAIRMAN:** Page 6. The Honourable Member for St. Johns.

**MR. CHERNIACK:** Mr. Chairman, I appreciate the fact that the Leader of the Opposition was out so briefly and came back so quickly, I assume in order to give me the opportunity to read to him from the record very briefly.

I do not know, Mr. Chairman, where he got the idea that the recommendation about Pilutik from the Law Society was against the recommendation. I don't know where he got it. He didn't quote it. He threw it out and he said, "I will now wait to see if the Attorney-General will deny it," something to that effect. I still don't know where he got the information.

Mr. Chairman, the Member for Lakeside has just said, "They stand there and lie through their teeth." He is best capable of appreciating what that might mean.

Mr. Chairman, I don't know where the Leader of the Opposition got the information or suspicion, let me say it that way, but I know where I heard reference to that. So I want to quote, Page 462 of the Minutes of the Hearing of the Standing Committee on Statutory Regulations and Orders held on Saturday, June 4th, and I quote from the statement on that page being given by Mr. Ken Houston, a member of the Law Society, and Mr. Houston said and I quote:

"We didn't appoint Tony Pilutik. You did. And you did that after the Law Society told you not to or at least recommended that you do not do so. That's my information."

Mr. Chairman, it may well be . . .

**A MEMBER:** Will he permit a question?

**MR. CHERNIACK:** Mr. Chairman, yesterday I agreed to a series of three questions from the honourable member and the last one he asked, he walked out before I had a chance to answer. I do not agree to permit a question.

Now I go on, Mr. Chairman. At the end of that morning, after another presentation had been made and just before we adjourned, Mr. Houston rose, and I quote again, Page 484, the same morning: "Mr. Chairman, may I have your patience for just a few seconds."

Mr. Chairman, who is the Chairman who has already been praised for the way he conducted these meetings, said: "Yes, Mr. Houston," and I now quote Mr. Houston:

"I hasten to correct myself. I made a remark this morning on the basis of an understanding on information that I had received. I'm told that that information or that understanding is wrong. I am wrong and I was wrong when I told you that the Law Society had recommended against the appointment of a particular judge. That was not what happened and I hasten to correct myself and I took the precaution of advising the people at the press table, in case they should leave, that that was an error and that even if they had left that I would be withdrawing that statement before the Committee. Thank you very much."

**MR. CHAIRMAN:** The Honourable Leader of the Opposition.

**MR. LYON:** Mr. Chairman, at the outset of my remarks I made reference to an alleged communication from the Law Society of Manitoba to the then Attorney-General of Manitoba, under Confidential letterhead, dated October 10, 1969, in which it is purported to show that Magistrate Pilutik or Anthony Pilutik was not recommended, or was shown as being not qualified to be a magistrate or a Family Court judge. I sat down and asked the Attorney-General if he could confirm if that information was correct. I ask him now again. —(Interjection)—

**MR. CHAIRMAN:** Order. The Honourable Attorney-General.

**MR. PAWLEY:** Mr. Chairman, I cannot confirm or deny that such a letter exists. There may very well be a letter, certainly I have not seen such a letter. There was reference the other day in the Committee to it.

**MR. CHAIRMAN:** The Honourable House Leader.

**MR. GREEN:** Mr. Chairman, again I'm not going to be much help. There was something, but I think that there might be a nuance with words. It may have been that they recommended others and didn't recommend him. The words that the Member for St. Johns has just read, is that they did not say that he wasn't qualified.

There was something. I have indicated that there was something; but the exact wording I can't recall. What I can tell the honourable member, and which I did tell him, is that the Attorney General decided not to go on that advice. —(Interjection)— That's right. Is that a lie?

**MR. CHAIRMAN:** The Honourable Leader of the Opposition.

**MR. LYON:** I take it . . .

**MR. CHAIRMAN:** Order. The Honourable Leader of the Opposition.

**MR. LYON:** Mr. Chairman, thank you. I take it that the Minister of Mines is not saying that such

advice was not given.

**MR. GREEN:** Mr. Chairman, I have indicated that the Attorney-General did seek advice; that names were suggested. I think that probably the difference between us is what the effect of the advice was, whether they were saying, "Out of seven names we recommend the following five," and saying nothing about the other two. And that might be what he . . . the other one might have been named.

Obviously from what Mr. Houston is now saying is that there was no specific recommendation that he not be appointed, which is the way it has come out from the honourable member's remarks. But there was that type of procedure. There's no attempt to deny that and I didn't deny it when you first indicated it.

**MR. CHAIRMAN:** The Honourable Leader of the Opposition.

**MR. LYON:** Mr. Chairman, I want to thank the honourable . . .

**MR. GREEN:** And I want to say to the honourable member that if the Law Society told me not to appoint somebody, that would be my No. 1 consideration for a first choice.

**MR. CHAIRMAN:** The Honourable Leader of the Opposition.

**MR. LYON:** Well, Mr. Chairman, it's very interesting to hear the comments of the Minister of Mines with respect to his views on the Law Society. I appreciate his frankness with respect to the fact that the confirmation, or I take it to be the confirmation, that advice was sought and advice was received, and I would ask the Attorney-General in the interests of fairness — and I want to be eminently fair to . . . —(Interjection)— Mr. Chairman, I want to be eminently fair to the Attorney-General and ask him if he will cause a search to be made of his records to ascertain whether such a letter, the date which is reported to be October 10, 1969, does in fact exist. And I'll abide by the Attorney-General's review of that and I will accept his word on that as final.

**MR. PAWLEY:** Well, Mr. Chairman, I don't know what purpose that would be because the Minister of Mines has already indicated that there probably is such a letter. I can look for it. I can check. There's no question that he was not recommended by the Law Society. —(Interjection)—

**MR. CHAIRMAN:** Order please. Order please. Order please. I would caution the Honourable Member for Lakeside. —(Interjection)— Order. We've had enough of this bandying about about the word of lying in this House and I'm not going to tolerate it any more.

**MR. HARRY J. ENNS(Lakeside):** I never spoke that word in this House. —(Interjection)—

**MR. CHAIRMAN:** Order.

**MR. ENNS:** . . . I never spoke that word . . . You've never heard that word cross my lips.

**MR. CHAIRMAN:** I have heard that word from your lips.

**MR. ENNS:** You've never heard that word cross my lips, and in fact . . .

**MR. CHAIRMAN:** Order.

**MR. ENNS:** . . . unless I stand up, unless you recognize me, I haven't said anything in this House.

**MR. CHAIRMAN:** You never say anything anyway. Order.

**MR. ENNS:** You damn well right know that.

**MR. CHAIRMAN:** Order. I would suggest that the Honourable Member for Lakeside take a walk. —(Interjection)— The Honourable Leader of the Opposition.

**MR. LYON:** Thank you, Mr. Chairman. I'm quite prepared to accept the Attorney-General's undertaking that he will cause that search to be made and indicate, presumably after the House prorogues, whether or not such a letter exists and what the recommendation was that was in that letter.

Now could we hear from the Attorney-General on the second question that I mentioned to him, as to whether or not the comment as reported in the press by his previous . . . —(Interjection)— I'm sorry, I didn't hear it. The comments that were reported in the press by Mr. Mackling, I can read it in Hansard, thank you. —(Interjection)—

**MR. CHAIRMAN:** Order please.

**MR. PAWLEY:** Mr. Chairman, in fairness, the member had to leave for a moment. I indicated that I know that Mr. Mackling, from the media reports, met with Mr. Pilutik and spoke to him about his drinking problem. I can recall 1970-1971, and I'm trying to be very very direct here, some reference in that connection, back in 1970-1971 when I was then the Minister of Municipal Affairs.

From 1973 when I was appointed Attorney-General up until the time of the launching of the criminal investigation, no one spoke to me that I can recall in connection with a drinking problem involving Mr. Pilutik. And by the way I want to also indicate one more thing when I have the opportunity.

I have checked with the senior people in my department because I wanted to be absolutely certain that it could not be suggested that I'd received some complaint and had not dealt with it, and senior people in my department have been asked by me if they can recollect any time that I received a complaint through the department in connection with the former Provincial Judge, and there is no knowledge of any such complaint, so I think I can say to the Leader of the Opposition that there was no complaint after I was appointed Attorney-General up until the launching of the investigation. Now

Friday, June 17, 1977

that is confirmed by senior people in my department — I don't trust only my own recollection. MR. CHAIRMAN: The Honourable Leader of the Opposition.

**MR. LYON:** I wish to thank the Attorney-General for his comments. We await with interest his report with respect to the advice that he had from the Law Society, if any, whether it was communicated verbally or orally; and could the Attorney-General indicate the present status of this matter *vis-a-vis* his statements to the press about further reviews, and so on. We have seen the letter that he has forwarded to us from Mr. Regier, dated the 15th of June, 1977, in which he recommends . . . Well, in short, in which he states that there is no evidence that he has seen arising from the Law Society that would necessitate the laying of any further criminal charges. Does that bring an end to this situation or what is the pending situation in the Pilutik case at the present time *vis-a-vis* further investigations?

**MR. PAWLEY:** Add one further point, that Mr. Regier also inquired into all the information that was obtained *vis-a-vis* the wiretap evidence, so that his reference includes not only the material to the Law Society, but that material which was accumulated from the wiretap.

With Mr. Regier's letter, that ends the matter insofar as any question as far as I am concerned as to whether or not any criminal charges would be warranted.

I wonder, Mr. Chairman, if I filed my original there, if Mr. Reeves could arrange for a photocopying of that?

**MR. CHAIRMAN:** The Honourable Leader of the Opposition.

**MR. LYON:** Sorry, Mr. Chairman. Can the Attorney-General give assurance to the House at this time that there are no other matters in this case, to his knowledge at the present time, which require further investigation, either arising out of previous investigations or out of information that is presently either in his hands, the hands of his officers or of the Law Society of Manitoba?

**MR. PAWLEY:** I wonder if the Leader of the Opposition would expand on that. Is he referring to matters of a criminal nature, or supervisory nature?

**MR. LYON:** Mr. Chairman, I am referring to matters of a criminal nature and matters relating to any other members of the department or anything related generally to the whole episode relative to the former judge.

**MR. PAWLEY:** First, I can say very flatly that insofar as the criminal is concerned, there is no material to my knowledge that would warrant any further investigation in that connection. Insofar as the allegations pertaining to court parties and to police officers, I have advised the House as to the information which I have at this time. I do not want to proceed beyond that until the Law Society has had further opportunity to reveal the material which led to their allegations because some of their material that was collected was collected independent from our material. But on the basis of the material which we had from our investigations — by that I include the RCMP and the City of Winnipeg investigations — there is no basis for any action of discipline pertaining to any employee in the Department of the Attorney-General or a police officer in the Province of Manitoba.

**MR. LYON:** Mr. Chairman, I take it the Attorney-General is then giving us an assurance insofar as he humanly can at this stage, that the matter is at an end save for the further review by the Law Society of Manitoba and that there are no other tag ends that have to be considered or gathered together with respect to any other wire-tap or other evidence that has been heretofore gathered.

**MR. PAWLEY:** No, there is no other evidence that has to be collected in connection with wire-tap or criminal investigations. The two areas that I await further comment from the Law Society in connection therewith is a reference to the plane and the party in connection with the plane; the one I made reference to, the not uncommon practice, often excessive drinking, and the one in connection with Norway House. There was some complaint that had been filed — and I want to be as direct as possible to the Leader of the Opposition — there was a complaint which has been acknowledged by the Chief Provincial Judge that was received by him in connection with the Federal Government accommodations which he had received from senior people within my department. By the way, I would like to also add to the Leader of the Opposition that I did not receive that complaint nor do I think that senior people in my department felt that it was necessary to bring that complaint to my attention. They have confirmed they didn't bring it to my attention but referred it to the Chief Provincial Judge under whose responsibility this fell under. So I am waiting further information pertaining to that also.

**MR. CHAIRMAN:** Page 6—pass; Page 7— the Honourable Member for Wolseley.

**MR. WILSON:** Page 6 under Law Enforcement and the Consumers' Bureau, I wish to address, Mr. Chairman. I have stayed out of the Pilutik affair since the beginning, but I had to sit and listen to a particular Minister who is certainly on a power trip who said — and very naturally he didn't put it on the record — that he wasn't finished with me yet, and a number of very power-trip type of remarks, very unbecoming a person with the title Honourable in front of him. Well, I'll tell you, I kept quiet because I have got a suit of armour, and the suit of armour that I have is the truth. I don't know what the Minister of Corrections pays the Winnipeg Tribune but it must be a real interesting situation — (Interjection)— that cess-pool out at the Manitoba Youth Centre has got to be exposed. I attempted to do that and will continue to do so. Under Law Enforcement, I was asked in this House by the

Minister to give anybody that would not give a copy of something that was damaging to the Attorney-General was less than a particular questionable character. I left the House and brought back not only the Attorney-General a copy of my notes but I gave a copy of those notes to the Minister of Corrections. In his reply, he admitted that three weeks before the Tribune had received a copy and — I stand to be corrected — a member of the Police Department had received a copy.

**A MEMBER:** From whom?

**MR. WILSON:** From parties unknown. So, the point that I am getting at is that I am no lawyer, but it seems to me that the Minister has third-partied himself, because when he asked that I give a copy — and I don't know what was in that report — to the Attorney-General he, in fact, asked me to give the Attorney-General the report and I did as the honourable member and Minister of Corrections asked me to do. I did that because of a conscientious belief that I don't care whether you want to call it a multiple rape at the Youth Centre or unbecoming behaviour, but for months and months now there has been a very questionable lack of action of the shuffling of paper, and every word that the Minister of Corrections called me applied to himself because he did not give that report to the Attorney-General himself. I was the first one to give that report to the Attorney-General. — (Interjection) —

ell, all right. I won't swallow too many Vitamin I pills because that is something you people save for yourselves. But there has to be a particular problem when they stop making security checks, when drugs are smoked out there, when people who are supposed to be juveniles come in drunk and loaded, when the punishment for a crime is to lose their exercises for the day — and half these lugs out there are too bloody lazy to exercise anyway, so that's a big punishment isn't it?

I am simply saying that, you know, the Minister can say he's not finished with me yet. I welcome the opportunity and I challenge him today, because when he puts me somewhere — if I can get an arena — where I can spell it out; I tried to spell it out the other day about 158 Home Street. The Minister is very very pleased of the fact he can load up my area with all his government experiments, babying. . . they call them Boyce's Babies. . . babying all these people who are less than fit to be on the outside with some of their behaviour and the contempt they have for the bloody system and the punishment directed at them. These ladies and gentlemen who were taxpayers for years have said, "When are you going to stop the parties? When are you going to stop the smoking of pot? When are you going to stop the girls staying there until all hours of the night? When are you going to stop the assaults and the disturbances to a quiet residential area? When are you going to stop giving all of these experiments to your friends, because half-way houses have become big money?"

So, the law enforcement has to be kept and I welcome the opportunity for an investigation into the Youth Centre because some interesting things will happen and next year, I guarantee you the government will have the security checks back on. Even the man who was supposed to be my key witness very conveniently has resigned and goodness knows where he has gone. But I have faith in the Attorney-General because I gave him a report. You know, the Attorney-General is at least decent enough to listen to some of my complaints.

For four months, a woman who arrived here, an immigrant who worked hard to get the privilege of coming into this country, a Mrs. Hafferty from St. Norbert; she phoned the police, she phoned the Minister, she phoned everybody on the government and nobody would help her because she had got ripped-off by Delphi T.V. on Pembina Highway. I brought it to the Minister's attention, and to his credit, he brought these two low-life people to justice and we got the headlines we deserved to protect the consumer. I am directing this question to the Consumers' Bureau because it turned out that one of the things that was found out from this fraud was that the Consumers' Bureau was completely ineffective and completely stacked with shuffling papers around; the Consumers' Bureau was ineffective to deal with the complaints that have had been brought forward by Mrs. Hafferty. I have written to Val Werier of the Tribune suggesting that he demand that recognition be given to Mrs. Hafferty who is not in my area — out in St. Norbert — a lady who, despite the inaction of the staff members of the Attorney-General who shuffle paper around and do nothing, insisted on action and finally got it — to the Attorney-General's credit when, during the Estimates, I said his staff was doing nothing but shuffling paper around. I brought the matter of Peter Rousis forward and he was convicted the other day, but up until that time, it was filed on one of the staff member's desks with a lack of action. So it shows you that if you bring things to the attention of this House, you will get action.

But, there are a lot of things under the Minister of Mines' area and this goes into the area of . . .

**MR. CHAIRMAN:** Order please.

**MR. WILSON:** I'm under Law Enforcement.

**MR. CHAIRMAN:** ORDER. The honourable member was in order when he was speaking under the Attorney-General and the Consumer Affairs. He is now in Minerals, Mines and Resources. We are not at that Section yet so he will confine his remarks. . . ORDER. . . he will confine his remarks to Page 6.

**MR. WILSON:** Thank you, Mr. Chairman. I really should be directing it under Law Enforcement. I think this is one of the keys because I refer to headlines. The public reads these headlines and they

say "King Choy Charges Possible." There are all these threats in the newspaper of bringing people to justice but nothing ever happens. They shuffle paper around; they do nothing. Whether it is St. Jean's Sportswear, Lighting Materials, or King Choy, all of them under investigation. The RCMP have a fantastically large staff who file reports with the Attorney-General's Department and nothing happens and the taxpayers get ripped-off. Here's another one. This is old news, but I remember Mr. Ziprick talking about government employees who formed their own Co-op and it was suggested that mysterious things happened in that particular area and nothing was done about that. I don't see any people losing their jobs or anything. This is the type of thing that I am talking about.

I couldn't sit here — and one of the reasons I filed that Order for Return — I knew the Minister of Corrections would never ever give me the answer — because when you find out the cost of these people that are being treated like angels out at the Manitoba Youth Centre; when you find the true cost of the damaged and destroyed furniture and sinks and the vandalism and if you could get a report of all of the people that come in loaded — and they are supposed to be under 18 years of age — then you will find out that there is obviously something wrong with our thinking. Goodness knows, the Minister is well known for his very good work in the Alcoholic Foundation but he hasn't done anything about juvenile crime in this province. He should start with the remand cage that these people are held in, and the key element in there should be security. If you can arrest a person under the Child Welfare Act — some boy 15 years of age runs away from home and he is tossed into the same cage with a third or fourth offender who may be up on suspected murder; he may be up on assault; he may be up on acid charge or he may be up on theft or armed robbery — and this boy who ran away from home is tossed into the cage with some of these third and fourth offenders, then you don't have the security, because when I alleged my particular situation pertaining to the homosexual attack on some of these weaker members of the particular cottage, I wasn't kidding when I said security.

What is paramount in my standing here tonight, as under Law Enforcement I shouldn't have to sit here while the Leader of my Party is questioning the Attorney-General about Mr. Pilutik and have the Minister of Corrections in a very sarcastic way say he hasn't finished with me yet. Well, I am not interested in any power trip because I am interested in the truth. Is the Manitoba Youth Centre a secure place for our children? Are third and fourth offenders in the same cage or in the same cottage with people on The Child Welfare Act? Is it true that security checks have been dispensed with as they come home at night, 2 or 3 o'clock in the morning, under the influence of alcohol? Are they searched for drugs no matter where they store them on their personal bodies? Is it true that in the particular canteen, the sweet smell of grass is there many many times? And is it true that vandalism is there? The Minister only has to answer my Order for Return.

**MR. CHAIRMAN:** The Honourable Minister of Corrections.

**MR. BOYCE:** Mr. Chairman, I was noticing when I was listening to the Leader of the Opposition how he adopts the attitude of an attorney losing a case and he becomes conciliatory. I mention that before I respond directly to the Member for Wolseley. I had such high hopes, Mr. Chairman, when the Leader of the Opposition came in that perhaps the process would be reinforced by his presence because he had said that he was going to make a contribution toward the raising of debates and other things. I sincerely had high hopes that this would be the case. I am sorry that this particular question, the Pilutik affair, which for some reason or other is being used more for political expediency than perhaps my idea of what justice entails, has reached the point that it did. I didn't really intend to get into this particular debate but, nevertheless, having been drawn into it, I will.

I happen to recall that over the eight years that we have been here, that when it was necessary . . . these people that are caucusing in front of me are distracting me, Mr. Chairman.

**MR. CHAIRMAN:** Order please.

**MR. BOYCE:** In 1969 when we first came in, there were certain rules and protocols and everything else. In fact, one of the first challenges that came to this group was to turf one of our own members out, and we voted unanimously to do so. Over the eight years, this support of the system by the opposition has gone by the boards; they don't support the system any more, even when they know in all logic the case before the Assembly is that the Chair should be sustained. It's just totally irrelevant any more and I am sorry to see that the Leader of the Opposition, who I sincerely thought would contribute to the decorum of this establishment and the deliberations we sit under so long, and all the symbols of our history, of our past . . . But nevertheless, I will get back. This Pilutik affair — that he is chiding the Attorney-General who the Minister of Mines said that, in his judgment, set an example for us all in how properly to proceed with justice. But yet here we had a flagrant — in my judgment — transgression of the Juvenile Delinquency Act, outside of this House. What took place inside of this House under parliamentary procedures is under the control of this House. But I would ask the Leader of the Opposition what he has done to discipline his own members, with his knowledge that he has in his possession in disciplining the members of his group in complying with the intent of the law relative to the particular section of the Juvenile Delinquency Act that prohibits the publication of information relative to juveniles. I am not talking about what took place inside this House, I am not

Friday, June 17, 1977

talking to the communication that was sent to me, was sent to the Attorney-General, I am talking about the stuff that was deliberately distributed to the press outside of this House.

The member on occasion, the Member for Wolseley on occasion, talks about establishments in his constituency, and the people I get phone calls from are the parents of these children who live in his constituency, and what civil action they will take against them I don't know. But I know what I would do if I was a parent of one of these children and he put their futures in jeopardy because of his irresponsible actions outside of this House.

The former Attorney-General of this province knows full well that the process of justice grinds fine and small, that it is a slow process. There are three separate investigations going on relative to the incident which took place on the 26th of April at the Youth Centre. I don't pretend or never have pretended that I haven't got problems and there always will be problems, but of the 12,000 — and you can get bandying about figures whether you use Stats Canada figures or mine or somebody else's figures — but out of the 12,000 people, youngsters that don't grow on damn trees, Mr. Chairman, we manage and have managed before I took this office, because we had an excellent probation system, we had an excellent juvenile system, and I will continue to work to keep it up, Mr. Chairman. But, nevertheless, he sits there with members of his own party that will destroy this system for political purposes. What level, what level, Mr. Chairman, do we have to sink to in political debate.

The Member for Wolseley speaks about truth. Some letter to the editor that I didn't . . . for I have no relationship with the press, in fact, up until recently we had an excellent working relationship, we ignored each other. But, nevertheless, somebody from his constituency wrote that his idea of truth is to publish a hydro bill which is an out and out fabrication, that people are so stupid that they will assume that the increase in their rates is because of what we did with Hydro when he is in arrears, he has increased his consumption. I don't know what increased rates and neither does anybody else with any sense. When he ran against me in Winnipeg Centre, the people over there, you know, they listened to him. On another occasion his idea of truth, it was one of the people who worked in his constituency put out a green piece of paper and they signed it some kind of name, a person, Chairman of some kind of — citizens for Bob Wilson or something. It said, "Bud Boyce doesn't work in Winnipeg Centre, doesn't live in Winnipeg Centre. Ken Arenson doesn't live in Winnipeg Centre, Bud Boyce doesn't live in Winnipeg Centre, Bob Wilson lives at such and such an address, works at such and such an address," — neither one of them were in Winnipeg Centre. But this is his idea of truth. So, that man stands there and talks about truth.

Mr. Chairman, I don't know, I had undertaken to the members, not the Member for Wolseley, I would undertake to give the members of this House an answer as a result of the questions raised by the Member for Wolseley. I am advised that the police investigation that was going on for three weeks prior to when the member raised it in this House, I am advised that the information has been forwarded to the Crown prosecutor and that . . . I wish the Leader of the Opposition would advise his colleagues under due process of law the decisions will be made . . . —(Interjections)—

**MR. CHAIRMAN:** Order please. I wish the honourable members wouldn't caucus in front of the member who is speaking. ORDER.

**MR. BOYCE:** Mr. Chairman, I am a little bit angry and they may get a coffee down the back of their neck if they . . . The charges, if any, which will be laid will be dealt with as the result of the due process of law. The investigations which I have to initiate — once again nobody else will do it, I have to do it — of what the interpretation of the Juvenile Delinquency Act is relative to publication of information — I have to initiate that, I have to come to the conclusion whether I should consult formally with my colleague the Attorney-General, that has to be determined.

As far as the staff is concerned, I am concerned, the staff over there is concerned, but, nevertheless, I'll be darned if I am going to go on a witch hunt. The senior staff that I have assigned to investigate this thing internally are people of integrity that worked in the system long before this government came in here, and I trust their motivation. When they talk about truth, Lord love us they are so far above the Member for Wolseley that he shouldn't even kiss their boots.

I will give all members of this House another undertaking and I think I have fulfilled all undertakings I have given members in this House, that when all of the investigations are completed you will get copies of it, if the House is not in Session.

**MR. CHAIRMAN:** The Honourable Member for Wolseley.

**MR. WILSON:** I just wanted to clear something up with the Minister of Corrections. Number one, I have not sent out that mailing piece yet. What I did is distribute it to members of the New Democratic Party to get their response, and very strangely a letter to the editor appeared signed by a constituent in tonight's Tribune. I wonder where she got the document from if I only distributed the particular information to the members of the New Democratic Party.

**MR. BOYCE:** Mr. Chairman, I am sorely tempted to give a professional opinion, but nevertheless, I would suggest that somebody advise the member what is involved in publication.

**MR. CHAIRMAN:** (The remainder of Bill 41 was read and passed.) Bill be reported.

Friday, June 17, 1977

Committee rise and report. Call in the Speaker.

*Mr. Chairman reported to Mr. Speaker upon the deliberations of the Committee.*

### IN SESSION

**MR. SPEAKER:** The Honourable Member for Logan.

**MR. WILLIAM JENKINS:** Mr. Speaker, I beg to move, seconded by the Honourable Member for Thompson, that the Report of the Committee of the Whole be received.

**MOTION presented and carried.**

### THIRD READINGS

**MR. GREEN** by leave presented Bill (No. 40) - An Act for Granting to Her Majesty Certain Sums of Money for the Public Service of the Province for the Fiscal Year ending the 31st day of March, 1978 for third reading.

**MOTION presented and carried.**

**MR. SPEAKER:** Order please. The Honourable Member for Radisson wish to speak to third reading? The Honourable Member for Radisson.

**MR. SHAFRANSKY:** Thank you, Mr. Speaker. I do wish to participate in this debate on third reading of Bill No. 40, an Act for Granting to Her Majesty Certain Sums of Money for the Public Service of the Province for the fiscal year ending the 31st day of March, 1978.

There has been two resolutions introduced into this House: one resolution introduced by the Honourable Member for St. Matthews, the other resolution introduced by the Honourable Member for Portage la Prairie, dealing with matters related to the federal-provincial relations. I would like to express some of my views as have been expressed by many people in various forms, relating to the whole question of federal-provincial relations.

Mr. Speaker, over the last few days I have listened to the Leader of the Official Opposition, in Committee, express many terms which to me were very very unusual and something that I really began to learn a new type of vocabulary. But, the one thing I would like to address myself to, is not to the vocabulary of the Leader of the Official Opposition, you know, such things as minions when he refers to civil servants and so on, I would like to address myself to the question of the issue which the Member for St. Matthews and the Member for Portage la Prairie wanted to have this House deal with. —(Interjection)— I am dealing with the resolution and I believe there is various kinds of federal-provincial expenditures involved and I would like to deal with the issue of the federal-provincial relations as far as the question of Quebec in this Confederation of Canada is concerned.

Mr. Speaker, I know I may be considered a fool in entering a field where angels fear to tread, however, the issue of trying to keep Quebec in Canada is indeed very real. The Honourable Member for Portage la Prairie had expressed certain concerns and certain ideas that I can agree with, and I can sympathize. The Honourable Member for St. Matthews, my colleague, expressed a desire that there should be established a type of country with a strong central government. But, Mr. Speaker, whether we, in the rest of Canada, like it or not, Quebec is going to hold a referendum on independence in the next two to four years. Nobody thought that the Party Quebecois might win the election last fall, but they did. We now seem to be of two minds on the outcome of the referendum. Many of us maintain that the Quebecois will never vote for independence, but in three or four years who knows? In any case, if we are not taking the PQs seriously what are we doing in this House talking about issues such as these, and we have introduced these resolutions. The Honourable Member for St. Matthews introduced it, the Honourable Member for Portage la Prairie introduced this question. Obviously —(Interjection)— Yes, Mr. Speaker.

**MR. SPEAKER:** Order please. I realize that we are discussing a bill in respect to certain sums of money, but I do realize that the relevancy of what the honourable member is saying may be stretching the issue a little. I wonder if he really does wish to debate that subject matter under this bill, because I do believe that the bill does not entitle him to go that far abroad. Now, if he could relate his remarks to the expenditures of certain sums of money for the Province of Manitoba I am prepared to listen to it, but at the present time he hasn't indicated any relevancy at all. The Honourable Member for Radisson.

**MR. SHAFRANSKY:** Thank you, Mr. Speaker. I realize that there might be some question about the relevance, but I feel that there is relevance. If Mr. Speaker can look through the various sections of the Estimates for the year 1977-78 there are various programs which involve federal-provincial relations. There have been instances in which the provinces are involved with the Federal Government — in conferences with the Premiers of the provinces and the Federal Government — are involved in discussions, and, I believe that this is very relevant. We can continue ignoring the question, but I believe that this question is very relevant because it was not my decision to introduce this issue, it was, in fact, one of my colleagues, and one of the members of the Opposition. So, Mr. Speaker, nobody thought that the Party Quebecois might win the election last fall, but they did. We now seem to be of two minds on the outcome of the referendum, Mr. Speaker, and that is an issue. I know you will question it, because, Mr. Speaker, you are ready to admonish me,

but the fact is that the four western Premiers at a conference not too long . . .

**MR. SPEAKER:** Order please. May I suggest to the honourable member I was not admonishing, I was asking for the relevancy. He has indicated it, and I am prepared to listen if there are no further objections. The Honourable Member for Radisson.

**MMR. HARRY SHAFRANSKY:** Well, Mr. Speaker, as I indicated, many of us maintain that the Quebecois will never vote for independence but in three or four years, who knows? In any case, if we're not taking the PQ seriously, what are we doing in this House talking about issues such as these? And we have discussed the issues.

The Honourable Member for River Heights in response to my colleague, the Member for St. Matthews, has responded. Obviously we can no longer take Quebec for granted. It could happen. So what do we do? If we really want Quebec to be part of Canada we have several courses of action before us.

Mr. Speaker, I am very happy to see that my leader, whom I admire very much, is here.

The question before us is directed at only one response to the Parti Quebecois' campaign for an independent Quebec, that response being the further delegation of powers to the provinces in the hope that this will keep Quebec in Confederation.

**MR. SPEAKER:** The Honourable Minister of Consumer and Corporate Affairs.

**HONOURABLE RENE TOUPIN (Springfield):** Could I ask the honourable member a question?

**MR. SPEAKER:** Order please. Order please.

**MR. SHAFRANSKY:** Mr. Speaker, I know the honourable members would like to detract me from my particular point of view. However, I'm going to be adamant.

Mr. Speaker, I have stated that there are at least three major courses of action to try to keep Quebec in Canada.

Now, Mr. Speaker, my colleague, the Honourable Member for St. Matthews, indicated to me that back in 1886 Nova Scotia, under the Premier W.S. Smithfield in the Legislature, voted for secession. They called an election and were elected on the platform to separate. They won the election.

Now the fact is, Mr. Speaker, that is still one of the facts remaining on the statutes in the Province of Nova Scotia . . .

**MR. SPEAKER:** Order please.

**MR. SHAFRANSKY:** . . . which had voted to secede. However, at that particular time in history, the Federal Government did not choose to consider this in a very serious manner.

Now, Mr. Speaker, in 1948, the Crown colony of Newfoundland had a referendum called by the then leader, Premier Smallwood, and the referendum was in favour of joining the Dominion of Canada.

In 1949 the Canadian parliament voted to accept Newfoundland as the tenth province of the Dominion of Canada.

Now, Mr. Speaker, these questions have been raised before, but we are faced with a situation today which was a new issue in the total idea of the Dominion of Canada, in which, on November 15th, 1976, a government was elected in the Province of Quebec which worked on a basis to dislodge a most corrupt inept government. But they also indicated that they were going to establish, in a matter of a year or two, a point of view that they were going to try to see if there is the will of the province to secede, the will of the people of the province to secede from the Dominion of Canada.

Now, the first response Quebec's challenge was to create a bilingual . . . Now, look what happened in earlier history in these questions of the federal-provincial relations and the question concerning the Province of Quebec. In 1960 . . .

**MR. SPEAKER:** Order please. The Honourable First Minister state his point of order.

**HONOURABLE EDWARD SCHYER, remier (Rossmere):** Well, Mr. Speaker, Sir, I would ask you to rule on whether it would be in order for this House to take note of the honourable member's speech, acknowledge the fact that he is a budding professor of history, and ask him to file the written text, which could be put in the public record as given.

**MR. SPEAKER:** Order please. Order please. I am not aware that what the Honourable First Minister raises as a point of order is a procedure we have utilized before, but I would agree with the Honourable First Minister that if the Honourable Member for Radisson is prepared to do that, and the House is prepared to accept, that . . . Order please, I have not completed. And if the Honourable Member for Radisson is prepared to co-operate, then I am prepared to agree with the House that this procedure can be adopted. The Honourable Member for Radisson.

**MR. SHAFRANSKY:** Mr. Speaker, I appreciate the advice and I really . . .

**MR. PAULLEY:** Well, why don't you take it?

**MR. SHAFRANSKY:** I am faced with a very great dilemma. However, I don't think that Hansard could relate my ideas as well as they might be expressed if I do proceed.

Mr. Speaker, I indicated that there are at least three major courses of action to try to keep Quebec in Canada. And that is my concern.

We could go back, Mr. Speaker. The first response to Quebec's challenge was the attempt by the



**Friday, June 17, 1977**

then Prime Minister in the 1960's, the Honourable John Diefenbaker, who tried to establish a bilingual and bicultural society in Canada. This was done only half-heartedly and basically with the wrong approach and for the wrong reasons.

This created a good deal of opposition in English-speaking Canada, and it is now being very much soft-peddled. But actually, if we really wanted Quebec to remain part of Canada, this was indeed . . . You know, to establish this B & B Commission, that was the most sound approach. After all, if all Canadians had a knowledge of both English and French, there would be no question of Quebec wanting to establish its independence.

I'm asking the members, if all Canadians spoke both languages, people from Quebec would not feel as if they were in an alien country when visiting Ontario, or the prairies, or any other part of Canada.

On the other hand, Canadians from English-speaking Canada would feel equally at home in Quebec if people there spoke both French and English, and knowledge of both languages throughout Canada would, in a sense, create a new society, and it would give this country a true sense of unity, identity and nation consciousness.

If we really wanted Quebec to remain, Mr. Speaker, part of Canada, we would have to pay the full price of it — by showing the Quebec people that we respect their sense of nationhood, and that we would now like to create a new society with them. We would have to show them that we could offer them a richer cultural opportunity than they could achieve by independence, and that this new society would be in our best interests, too.

If we would be prepared to start educating everyone in French and English, then Quebec might decide to remain in this new type of country and, to match our efforts, Quebec would then offer French and English in all their schools as well.

If we really wanted the PQ referendum to be defeated, we would have to show the people of Quebec that we in English-speaking Canada are prepared to do our part to achieve a blending of the two major founding groups in Canada, and to create a new society of Canadians equally fluent in both languages.

Now, this is not a new idea but is this realistic? Mr. Speaker, at this stage I don't think that it is. It is simply too late at this point in history. Just this past January, a gallop poll showed that 64 percent of English-speaking Canadians were opposed to more extension of the bilingual program, and only 28 percent were in favour and that was a very recent thing.

Furthermore, the majority of Quebec people know deep in their hearts that the *maudits anglais* — the damn English — are not prepared to learn French, no matter what. It's not just a case of there being too many Archie Bunkers; it's a case of us not really understanding what the basic issue is.

Mr. Speaker, I looked through the transcripts of Hansard to the various years and I have noticed that the various times members have made speeches on this particular motion . . . And I'm not trying to avoid a question which I was very much concerned with when I first met the present Premier of Quebec in 1968, Rene Levesque. He was then a leader and I believe he had a particular ideal, which is something I admired. However, whatever you think, I shall continue. To create a new society of French and English-speaking Canadians is a fine idea but English-Canada is still not prepared for this. In any case, at this point it is simply too late.

What is the other major alternative open to us? This is the one that the federal government may not be agreeable to, and one which a number of provinces would support. In fact, all the political parties are talking about it — the New Democratic Party, the Conservatives, and the Liberals. This has to do with a constitutional change. What this really means is a further delegation of power to the provinces. I believe that Ontario wants this; Saudi-Alberta certainly does. It is thought by a great many people that this would appease Quebec and defuse the PQ threat.

On this point I agree totally with the Honourable Member for St. Matthews, that a further weakening of the Federal Government could be disastrous for this country.

If Quebec is not to get any special status, and if it remains one of ten equal provinces, then any concessions that are made to Quebec would have to be made to all the other provinces. With pressures from Quebec and the more powerful provinces, as well as an agreeable Federal Government, this could certainly lead to ten semi-independent economic and political units in this country. And with the Federal Government being in charge of only the post office and a few other minor departments, what kind of a country would this be?

For one thing, the rich areas would get richer and the poor would get poorer, because naturally there would be no federal equalization policies.

Furthermore, this is exactly what the multinational corporations would want. They could play off one province against the other and there would be no national policies of any kind — national policies on energy, which are lacking today, on foreign investment, which are lacking, on general transportation facilities, which are lacking. There would be practically nothing. Such a Canada would be far worse than a unified English-speaking Canada without Quebec. So far as this is concerned, I am in complete agreement with the attitude expressed by the Honourable Member for St. Matthews.

Friday, June 17, 1977

Is there any other course of action that could be a response to the Quebec challenge? In my opinion, Mr. Speaker, there is, and this particular resolution or issue raised by my colleague, the Member for St. Matthews, in its overall sense expresses it perfectly. But I don't think that my colleague, the Honourable Member for St. Matthews, would admit to it so openly.

What does this resolution really say? It says that we should maintain the *status quo*, period. That's what it says. It makes no mention of a bilingual and bicultural society, or a bicultural solution.

Mr. Speaker, as I stated, what that particular resolution indicates is that we should maintain the *status quo*. That's what it says. It makes no mention of a bilingual and bicultural solution. It opposes a further delegation of power to the provinces, but it affirms our determination to maintain a strong united country. Indeed, very strong, ringing words. It may make us feel good to pass this question that was posed but it will have absolutely no effect on the overall situation.

For us to stand here and wring our hands and make statements such as the Member for River Heights stated, "I think that a unified country is the best, it is the best for all." Or as the Member for River Heights said, "Our need now is to talk very positively about our country and to talk about unity." It's simply just talk. Mr. Speaker, mere talk and strong convictions on our part will have absolutely no effect on the people of Quebec. They are the ones who are going to vote on the referendum and they are the ones who may change the course of destiny for this country. On the other hand, mere talk in this House and it has been expressed and strongly expressed convictions, and I am no different from the feeling of a united Canada, they are the ones who are going to vote because the people of Quebec are the ones who are going to vote on the referendum and they are the ones who may change the course of destiny for this country. On the other hand, as I have indicated, this talk in the House is not going to alter the course of history. In fact, the *status quo* as the third response to the Quebec challenge is the weakest of all. But this is what we are reduced to and maybe this is the only realistic course of action left to us.

Mr. Speaker, my comments, contrary to the constant interruptions, are not meant to be destructive or negative. I just wanted to indicate to the House that there is no point in kidding ourselves that we in Manitoba or people in English-speaking Canada, in general, are somehow going to alter the course of events in Quebec. In my opinion, Mr. Speaker, it is too late for that. The chickens have finally come home to roost. It is now the Quebec people who are going to make the decision that will affect the course of our country and our lives.

Mr. Speaker, the discussion of this issue will not do any real harm as the desire of my colleague, the Honourable Member for St. Matthews, but it won't do any good either.

However, we should not let this question box us into a corner and we should not let it stifle a deeper analysis of our present problems. I am not suggesting that we consider making deals with Quebec. For one thing, that would not change or alter the goals of the Parti Québécois. We will have to wait to see how history will unfold but does that mean we should sit around like ostriches — that's what a lot of you people would like to do — with our heads in the sand, afraid to even discuss the full implications of the PQs position because it may give them some added credibility and that seems to be the great concern. Should we simply conduct little games of whistling as we go past the graveyard? Should we play the little game of not daring to think the unthinkable because it may give credibility to the PQ? Then, in three or four years from now, the Quebec people in a democratically conducted referendum decide they want to form an independent country. Is it only then that we are going to consider what we are going to do and what the full implications would be? Now that would be very irresponsible in my opinion and so I think we should consider the unthinkable. In other words, we should consider this issue from a different viewpoint. —(Interjection)— The Honourable Member for Fort Rouge says, "unbelievable." Many times what I have stated I just couldn't understand and it seemed to be always unbelievable. However, as far as I know, what I am about to say, Mr. Speaker, has not been stated openly by any elected member in English-speaking Canada, either in Ottawa or in any of the provinces.

Mr. Speaker, you indicated to me some five minutes and I noted when I got up that with all of the interruptions that I had been imbued with, that I had not talked for the allowed 40 minutes on this particular issue.

But it is time that we dared to examine the PQs challenge and what it really means. I know the Member for Fort Rouge would like to put his head in the sand and talk about irrelevance, however, does Quebec have the right to national self-determination?

Mr. Speaker, the question still comes up. Does Quebec have the right to national self-determination? Is it a province like any of the others and are the French-Canadians in Quebec any different from the French-Canadians in English-speaking Canada? —(Interjection)— He indicated, "Yes." I believe that one of the main reasons why we have come to this sad state of affairs in this country is because we, in the English-speaking Canada, have refused to admit that Quebec and French-Canadians in Quebec are indeed different from other provinces. French-Canadians in English-speaking Canada are basically the same as all other minority groups. Their position is not really different from that of Ukrainians, Germans, the Icelanders; they are a minority group. They are

a minority people surrounded by a sea of English-speaking people. Meantime in Quebec, the French-Canadians are in the majority. They form over 80 percent of the population and all other ethnic groups are in the minority so there is a profound difference between French-Canadians in Quebec and French-Canadians in English-speaking Canada. Yet, we have never really faced up to this in English-speaking Canada. We have persisted for years thinking that the French in Quebec are some day going to learn English, the same as all other ethnic groups in the rest of Canada and that was a dream. I remember coming to Canada and I remember getting strapped because I dared to speak Ukrainian at recess time. I got strapped because I didn't know English. I got strapped by the teacher because English was the only language that was recognized. Well, Mr. Speaker, I have paused for your consideration to bring order and I am still going to insist on proceeding. I have not used up the time that is normally allotted.

I have said that the French in Quebec are some day, the question I said that there was a hope that the French in Quebec are some day going to learn to speak English the same as other ethnic groups in the rest of Canada and that was a dream. Mr. Speaker, some of us are still dreaming.

The problem was compounded because of history and English economic power and the minority English-speaking group in Quebec have always been able to act as if they were in the majority and the French, although they were in the majority were often faced with being second-class citizens. This created deep-rooted alienation and it is only since the quiet revolution of the 1960s that the French have begun to act as if they were indeed the majority.

I recall reading in the late Fifties, an article in Maclean's Magazine, a viewpoint expressed by Cardinal, then Archbishop Leger of Montreal and Archbishop Roy of Quebec City. One was for the, continuation of the *status quo*. That was since Cardinal Roy of Quebec City and Leger advocated a change that people were not going to be subjugated to the wail of the complete church influence which had something that in France had long been abandoned.

Now, Mr. Speaker, does Quebec have the right to national determination? This whole concept stems from the United Nation's Charter, and what does the Declaration of Human Rights have to say on this? It states that if a people are in effective control of a territory, that is, if they form the majority and if they have a common language, culture and tradition, then they have the right to nation status. It is interesting to note that that definition disqualifies all other ethnic groups and all other provinces from seceding from Canada or claiming that they have the right to independence. No other ethnic group is in effective control of territory nor do they form a majority in a region. My leader indicates that that is not necessarily so. I indicate to him that in the Northwest Territories . . .

**MR. CHAIRMAN:** Order please. The honourable member's time is up. —(Interjection)— The Honourable Member for Radisson.

**MR. SHAFRANSKY:** Thank you, Mr. Speaker.

**MR. SPEAKER:** Order please. If the Assembly will make up its mind. I said the honourable member's time is up and everyone shouted leave. —(Interjection)— Very well. The honourable member does not have leave. I am sorry, his time is up.

**MR. SHAFRANSKY:** Mr. Speaker, I believe that the whole question of dealing with this matter, every member in this House is entitled to a full 40 minutes. I have been interrupted by questions, by constant ridicule and I would like to deal with this issue.

**MR. SPEAKER:** I am sorry. The honourable member's 40 minutes are up. The Honourable House Leader.

**MR. GREEN:** Mr. Speaker, on a point of order. Perhaps the honourable member will now accept the suggestion of the Honourable the First Minister that the balance of his remarks be recorded in Hansard and all of the honourable members will then be able to follow his speech to its completion. I think that if the honourable member will do that, he will be able to. . . I realize that he has the text and that the text can be recorded so that the balance of the remarks can be recorded.

**MR. SPEAKER:** The Honourable Member for Flin Flon state his point of order.

**MR. BARROW:** Mr. Speaker, I and members of this side would like to hear the member finish his speech.

**Balance of Mr. Shafransky's address:** No other ethnic group is in effective control of territory and nor do they form the majority in a region (except possibly for the indigenous people of the Northwest Territories, but this is another issue). In other words, according to the United Nations Charter, Quebec does have the right to national self-determination. English-speaking Canadians may prattle about the UN and how it applies to other countries, but they are not prepared to face the reality of the situation in Canada. On the other hand, a growing number of people in Quebec are beginning to realize this, and this is a major point that the PQ is going to stress. Many Quebecers are gradually acquiring a sense of nation consciousness, and they view themselves as being a colony of Canada — and they now want their place in the sun as an independent nation. No other province or ethnic group in Canada has the right to such aspirations — but we in English-speaking Canada persist in a dream

that Quebec does not have this right either, when in actual fact they do.

Whether we like it or not, this is how many Quebecers are viewing the situation. But what does it mean if we carry this argument to its logical conclusion? If the people of Quebec should decide in a democratic fashion that they want independence and full nation status, what does it mean? How could this be interpreted as a crime against humanism as Trudeau put it, or that this is historically retrogressive and dangerous as my colleague from St. Matthews has claimed? This is in the mainstream of history and it is part of the whole historical trend since the Second World War, which saw the break up of empires and the end of colonialism and the establishment of countless new nations. How can we say that this process is a crime against humanism? On the contrary, put in this context, it would be a crime against humanism to stop a people from becoming a nation if they are qualified to do so and choose in a democratic way to exercise this right.

A further point on this, the CBC Penard Poll in March showed that 32 percent of Quebecers (over 38 percent of French-speaking Quebecers) favoured Quebec independence with economic association with Canada. Another 15 percent were undecided, but with an all-out PQ campaign in three or four years, Quebecers could easily vote for such a position. Another important point on this, the poll indicated that the majority of Quebecers were not attached to Canada in a sentimental or emotional sense, they were hesitant to go on their own because of economic reasons. The PQs first in-depth economic report shows that over the last 15 years Quebec has actually lost over \$4 billion dollars when the entire economic situation is considered. Ottawa promptly denied this, but so far they have not advanced any real proof that this is not so. If the PQ can prove that Quebec has nothing to lose but may in fact gain economically if it leaves Canada, the chance of the referendum passing is very great indeed.

Let us be clear on another point. The PQ referendum is going to be very carefully worded, and it should be obvious to us that the wording is going to stress independence with economic association with Canada. They will do this whether we say that we won't co-operate economically or not. The point is that in three or four years with an intense campaign it would be surprising if a majority of Quebecers do not approve such a referendum.

What about English-speaking Canada co-operating economically with an independent Quebec? I think we are playing games by saying that we will not. And it surprises me that the Western premiers placed themselves on record a few weeks ago that they would not support any type of economic association with Quebec. Tell me, Mr. Speaker, how are we going to stop economic trade with Quebec? How are we going to stop private business firms from selling and buying goods in Quebec? How are we going to stop, for example, Kipp-Kelly in Winnipeg from selling machinery to Quebec? Does this mean that we are going to establish an American-type Trading with the Enemy Act? Will this mean that it will be all right to trade with China, the USSR, and Cuba but not with Quebec? And yet how can it mean anything else if we are serious about this? But this would be a totally ridiculous position. It would hurt us almost as much as it would hurt Quebec. Close to one-quarter of Ontario's overall industrial market is in Quebec. These business firms are not about to go bankrupt because of an immature and vengeful stance by federal and provincial politicians. When it comes down to it, we will trade with Quebec . . . just as the USA is about to do with Cuba. So let's stop kidding ourselves on this. Furthermore, the PQ government knows this, and that's why I am certain that the referendum is going to include independence with economic association.

We have to face these problems. To be afraid to discuss this because it might give the PQ additional credibility is ridiculous. These problems are not going to go away. We are going to be faced with history-making decisions in the next three or four years. Are we going to wait until then to decide what we are going to do?

Because of time limitations, I am not able to discuss this any further, but I do have further thoughts on this issue. It is not necessarily a disaster for Canada to establish a totally new association with Quebec in the future.

**MR. SPEAKER:** Order please. There is a motion before the House.

**MR. GREEN:** Mr. Speaker, would you put the question on the bill?

**MR. SPEAKER:** That's right. There is a motion before the House, that is third reading of Bill 40.

**QUESTION put, MOTION carried.**

**Bills No. 40, 88, 84 and 87 were each read a third time and passed.**

**MR. GREEN:** Well, Mr. Speaker, I believe that that completes the Order Paper.

#### **ROYAL ASSENT**

**DEPUTY SARGEANT-AT-ARMS (Mr. R. Cadger):** His Honour the Lieutenant-Governor.

His Honour, F. L. JOBIN, Esquire, Lieutenant-Governor of the Province of Manitoba, entered the House and was seated on the THRONE.

**Friday, June 17, 1977**

**MR. SPEAKER:** May it please Your Honour, The Legislative Assembly, at its present Session, passed several Bills, which in the name of the Assembly, I present to Your Honour, and to which Bills I respectfully request Your Honour's Assent.

- No. 3 - The Farm Income Assurance Plans Act.
  - No. 6 - An Act to amend The Jury Act.
  - No. 8 - An Act to amend The Highway Traffic Act.
  - No. 9 - An Act to amend The Brandon Charter.
  - No. 10 - An Act to amend The County Courts Act.
  - No. 12 - An Act to amend The Local Authorities Elections Act.
  - No. 13 - An Act to amend The Municipal Act.
  - No. 14 - An Act to amend The Landlord and Tenant Act.
  - No. 15 - An Act to amend The Real Estate Brokers Act.
  - No. 16 - An Act to amend The Garage Keepers Act.
  - No. 18 - The Retail Businesses Holiday Closing Act.
  - No. 19 - An Act respecting the St. James-Assiniboia School Division No. 2.
  - No. 21 - An Act to amend The Real Property Act.
  - No. 22 - An Act to amend The Personal Property Security Act and certain other Acts relating to Personal Property.
  - No. 24 - An Act to Provide for the Amalgamation of La Centrale des Caisses Populaires du Manitoba Ltee and La Centrale des Caisses Populaires du Manitoba Credit Union Limited.
  - No. 25 - An Act to amend The Buildings and Mobile Homes Act.
  - No. 26 - An Act to amend The Apprenticeship and Tradesmen's Qualifications Act.
  - No. 29 - An Act to amend The Snowmobile Act.
  - No. 30 - An Act to amend The Highway Traffic Act (2).
  - No. 32 - An Act to amend The Hospitals Act.
  - No. 35 - An Act to amend The Highway Traffic Act (3).
  - No. 37 - An Act to amend An Act to Incorporate Heller-Natofin (Western) Ltd.
  - No. 39 - An Act to amend The Planning Act.
  - No. 45 - An Act to amend The Vacations With Pay Act.
  - No. 47 - An Act to amend The Department of Labour Act.
  - No. 48 - An Act to amend The Insurance Act.
  - No. 50 - An Act to amend The Payment of Wages Act.
  - No. 51 - An Act to amend The Civil Service Superannuation Act.
  - No. 52 - An Act to amend The Teachers' Pensions Act.
  - No. 54 - An Act to amend The Intoxicated Persons Detention Act.
  - No. 56 - The Farm Lands Protection Act.
  - No. 57 - An Act to amend The Manitoba Telephone Act.
  - No. 59 - An Act to amend The Human Rights Act.
  - No. 60 - The Family Maintenance Act.
  - No. 61 - The Marital Property Act.
  - No. 62 - An Act to amend The City of Winnipeg Act.
  - No. 64 - An Act to amend The Highway Traffic Act (4).
  - No. 65 - An Act to amend The Employment Standards Act (2).
  - No. 67 - The Credit Unions and Caisses Populaires Act.
  - No. 69 - An Act to amend The Public Schools Act.
  - No. 71 - An Act to amend An Act to incorporate The Society of Industrial Accountants of Manitoba.
  - No. 72 - An Act to amend Various Acts Relating to Marital Property.
  - No. 73 - An Act to amend An Act to Incorporate the Sinking Fund Trustees of The Winnipeg School Division No. 1.
  - No. 77 - An Act to amend The Pension Benefits Act.
  - No. 79 - An Act to amend The Real Property Act (2).
  - No. 81 - An Act to amend The Employment Standards Act (3).
  - No. 82 - The Statute Law Amendment Act (1977).
  - No. 84 - The Statute Law Amendment (Taxation) Act (1977) (2).
  - No. 85 - An Act to amend The City of Winnipeg Act (2).
  - No. 86 - An Act to amend The Election Act.
  - No. 87 - The Homeowners Tax and Insulation Assistance Act.
  - No. 88 - The Statute Law Amendment Act (1977) (2).
- MR. CLERK:** In Her Majesty's Name, His Honour, the Lieutenant-Governor doth assent to these Bills.
- MR. SPEAKER:** We, Her Majesty's most dutiful and faithful subjects, the Legislative Assembly of

**Friday, June 17, 1977**

Manitoba, in session assembled, approach Your Honour with sentiments of unfeigned devotion and loyalty to Her Majesty's person and Government, and beg for Your Honour the acceptance of this Bill:

No. 40 - An Act for the Granting to Her Majesty Certain Sums of Money for the Public Service of the Province for the Fiscal Year ending the 31st day of March, 1978.

**MR. CLERK:** His Honour, the Lieutenant-Governor doth thank Her Majesty's dutiful and loyal subjects, accepts their benevolence, and assents to this Bill in Her Majesty's name.

**HIS HONOUR, FRANCIS L. JOBIN:** Mr. Speaker, and Members of the Legislative Assembly.

The work of the Fourth Session of the Thirtieth Legislature has now been completed. I wish to commend the members for their faithful attention to their duties, including many hours, and I repeat, many hours devoted to consideration of bills and Estimates, both in the House and in the Committee. I convey to you my appreciation of your concern for the public interest, and for the general welfare of our province.

I thank you for providing the necessary sums of money for carrying on the public business. It will be the intention of my Ministers to ensure that these sums will be expended with both efficiency and economy by all departments of the government.

In relieving you now of your present duties and declaring the Fourth Session of the Thirtieth Legislature prorogued, I give you my best wishes and pray that under the guidance of Divine Providence, our Province may continue to provide the things which are necessary for the health, happiness and the well-being of all of our people.

**MR. PAWLEY:** It is the will and pleasure of His Honour, the Lieutenant-Governor that this Legislative Assembly be prorogued until it shall please His Honour to summon the same for the dispatch of business, and the Legislative Assembly is according prorogued.

(God Save the Queen)