

# LEGISLATIVE ASSEMBLY OF MANITOBA

Thursday, July 20, 1978

Time: 8:00 p.m.

**OPENING PRAYER** by Mr. Speaker.

**MR. SPEAKER, Hon. Harry E. Graham (Birtle-Russell):** Presenting Petitions . . . Reading and Receiving Petitions.

## PRESENTING REPORTS BY STANDING AND SPECIAL COMMITTEES

### RETURN TO ORDERS

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

**HON. WARNER H. JORGENSEN (Morris):** I'd like to table an Order for Return, Nos. 6 and 7, requested by the Honourable Member for Seven Oaks; 50 and 51, the Member for Point Douglas; 35 and 36, the Member for Selkirk; 45 and 46 on request of the Member for Brandon East; 37 and 38 at the request of the Member for St. Vital; 21 and 22, the Member for St. Vital; 47 and 48, the Member for St. George; 28 and 30 at the request of the Members for The Pas and Flin Flon; 39 and 40 at the request of the Member for Rupertsland.

**MR. SPEAKER:** Notices of Motion . . . Ministerial Statements . . . Notices of Motion . . . Introduction of Bills. . . . Oral Questions . . .

### ORDERS OF THE DAY

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

**MR. JORGENSEN:** Mr. Speaker, may I suggest that the House do now recess until the call of the Chair and we will proceed to Law Amendments.

**MOTION presented and carried** and the House was accordingly recessed and will return at the call of the Chair.

### IN SESSION

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

**MR. ARNOLD BROWN:** By leave, I beg to present the Fourth Report of the Standing Committee of Law Amendments.

**MR. CLERK:** Your Committee has considered Bills:  
No. 62, An Act to Amend The Rent Stabilization Act  
No. 65, An Act to Amend The Human Rights Act (2).  
And has agreed to report same with certain amendments.

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

**MR. BROWN:** I move, seconded by the Member for St. James, that the report of Committee be received.

**MOTION presented and carried.**

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

**MR. JORGENSEN:** Mr. Speaker, will you call Bill No. 25 in the Report Stage, please?

### REPORT STAGE

**BILL NO. 25 — THE CATTLE PRODUCERS ASSOCIATION ACT**

**MR. SPEAKER:** Bill No. 25, Report Stage, we have an amendment. The Honourable Member for Lac du Bonnet.

**MR. SAMUEL USKIW:** Mr. Speaker, I wish to move, seconded by the Member for Inkster, that the proposed new subsection 7(1)(a) as set out in Bill No. 25, The Cattle Producers Association Act, be deleted.

**MOTION presented.**

**MR. SPEAKER:** The Honourable Member for Lac du Bonnet.

**MR. USKIW.** Well, Mr. Speaker, we have gone through the entire process, virtually, of this particular bill, through the Assembly and Committee, and it's obvious at this stage, Mr. Speaker, that as we had suspected all along, that our Minister of Agriculture indeed does lack credibility; indeed, the Government of Manitoba lacks credibility in bringing in this kind of measure, The Cattle Producers Association Act, a compulsory measure which allows for delegation of government authority to a private organization.

I want to say that after hearing the briefs in Committee, and there were many worthwhile ones, Mr. Speaker, each brief as we went through them verified more fully, in my mind, the lack of credibility. We have seen before this Chamber and before Committee, an attempt on the part of certain people in the cattle industry, through this government, wanting to get control of that industry. And it's not as if, Mr. Speaker, it was the masses out there that were demanding this legislation, but — well, the First Minister is smiling, Mr. Speaker, and I know why, because we are under some pressure this evening, and under some threat, Mr. Speaker, that those who speak at length run the risk of having their arms broken here tonight, so I can appreciate the contribution of the First Minister. —(Interjection)—

I do not intend to speak at length, but I want to make these few points, Mr. Speaker, because I am indeed afraid that that may be the case.

The people that presented briefs, Mr. Speaker, both those who were for the bill and those against, did fully demonstrate to the Committee that this bill should have never been introduced, because those speaking for it indicated to us very clearly that the reason they were for it is because they were unable to form a cattlemen's association on a voluntary basis. That in itself should spell doom to this legislation, Mr. Speaker, because if you don't have that kind of support, if you can't muster the support for a voluntary association, then it should never be legislated, and this is a principle that we have abandoned in Bill 25. The principle that people ought to belong to an association of their own choosing is a principle that we are abandoning through the passage of Bill 25, and those are indeed very important precedents that are being set in this Assembly. And I worry, Mr. Speaker, and I would almost predict that in the years ahead, that there will be demands from other groups wanting the same kind of authority to run their private organization as is being provided to a small group of cattlemen in this province, Mr. Speaker. And that, I think, is the nub of our resistance to this kind of legislation. It is not as if we don't wish the cattlemen the right to have an association, but it is that we abhor the idea of governments passing laws that force people into an association, to belong as members of that association.

Mr. Speaker, it was evident, in cross-examining the witnesses before Committee, that there were indeed some particular groups who had a vested interest in this bill, and I will name them, Mr. Speaker. The Beef Growers Association are predominantly the sponsors of this legislation, a group that is by and large — well, they are indeed a minority of the cattle producers of this province.

Another significant brief was the Farm Bureau brief, Mr. Speaker, and I think it should be noted that on cross-examination, that particular organization admitted to the committee that they may have a conflict of interest, that they may receive funds from this association once it is established, and therefore they may have a financial interest in the passage of this bill. So certainly we couldn't look upon that particular brief as being a credible brief. Then of course we have the Cow-Calf Producers Association who presented their views, and then we had subsequent members of the Cow-Calf Association, in fact members of their executive, challenging the authority of that brief because meetings were held where quorums were not present; they were unable to get a quorum for the passage of resolutions in support of Bill 25, Mr. Speaker. That is the kind of evidence that we received in committee. So that in essence we really don't have the kind of support for this legislation that the Minister alluded to, and if we did, it wouldn't change my mind, Mr. Speaker,

for the reasons that I have already stated.

Then, Mr. Speaker, after all the grandstanding of the Minister with respect to his readiness to introduce significant amendments to deal with those particular points at issue that people were pointing out to the committee, we find that we had amendments brought in that really don't change very much, Mr. Speaker. The idea that Section 7(1) should no longer require certain things that must be done on the part of producers and others in the industry, but they have changed it to read, "that may reasonably require." You know, it is very interesting because one would have to assume that if we now have the amended section that says "may reasonably require" one would have to assume that the original section intended that it be unreasonably required. What a bunch of nonsense, Mr. Speaker.

Since this matter would be adjudicated in the courts in any event, it is really the courts that will determine the reasonableness or otherwise of any requirement in this section. So the whole amendment is a fraud, Mr. Speaker, it doesn't change anything. And that further demonstrates the insincerity and the lack of integrity of the Minister of Agriculture to the whole process, the introduction, presentation, the committee stage, and all the verbage, press releases, that were released by his department. They all point, Mr. Speaker, to the question of credibility of the Minister and the government with this particular bill.

So, Mr. Speaker, I do not wish to prolong the debate, but I want the front bench to search their minds on this issue and to satisfy themselves, Mr. Speaker, that they will be able to say no to other associations who come to them and demand the same sort of powers so that they can govern their particular industry in the same way. I want them to search their minds and put that question to themselves, because if this bill passes, there is no doubt in my mind, Mr. Speaker, that other private groups will want the same kind of powers given to them, which is really power that should only be retained by the government of the day, and never delegated. Thank you, Mr. Speaker.

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

**HON. JAMES E. DOWNEY (Arthur):** Mr. Speaker, getting back to Bill 25 which the Member for Lac du Bonnet has proposed an amendment to, the amendments which were prepared by our government and introduced to Bill 25, I feel, will further assure the individuals, if they do not want to participate in the association, that the association, as it relates to the power of reporting to it, cannot affect individuals who feel that they do not want to participate. I would also like to point out that it clearly states that if an individual does not want to be a participant and wants to opt out, that he is able to do so. Of course, as the bill originally read, the fees cannot be collected until after a producer-elected board.

I would just like to get back to — just speak briefly on it and not hold the House up too long — but I would just like to get back to the committee stage where we had quite a number of briefs and I appreciated the input from all members and associations of the public. I think they were helpful and meaningful in helping to discuss the whole livestock association bill.

It is very interesting, however, to note that the majority in opposition to it were members of the Farmers Union in Manitoba, members of the National Farmers Union who, for the past four years, have received a grant from the last administration, of some \$20,000 per year and seemingly it could only be that they had more than the livestock association that they were opposed to.

I would also like to just say that the principle of not being able to control or introduce supply management with such a bill was probably one of the other reasons why there was such severe opposition to it.

In making reference to the fact that there haven't been other private associations set up by government, it has been brought to my attention through some research that The Women's Institute Act of Manitoba, which is an association of women, was introduced as a government bill. I think the initial introduction of that bill was in 1913. The Dairy Producers Association Act, I believe, was introduced some 75 years ago. So it is not a first in the Legislative Assembly.

I would also just like to mention briefly the fact that a lot of the opposition to the bill was, I believe, because of the lack of having compulsory market controls over the individual farm people and I might just relate a little bit of past history briefly, that the hog producers in Manitoba were compelled to market their hogs through a producer marketing board which comes under the control of The Natural Products Marketing Act, the Manitoba Marketing Board.

After an Order-in-Council was passed forcing all hogs to sell through one marketing agency, there was a contract sale to a country which we are all fairly familiar with, and in some of the calculations, after getting some of the details of the sale to Japan, it would figure, on rough calculations, nothing exactly, that that agreement has cost the hog producers of Manitoba an estimated \$2 million to \$3 million, that if those same hogs were sold in Manitoba to Manitobans and Canadians, that there could have been an additional \$2 million to \$3 million derived for the

Manitoba hog producers.

Those, I said, Mr. Speaker, are rough figures. I don't want to prolong the debate, but feel that the amendment that has been introduced should be defeated and that the bill as amended by committee stage by the government should be supported.

So with those comments, Mr. Speaker, I would like to see Bill 25 passed.

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

**MR. GREEN:** Mr. Speaker, in all likelihood this will be the last time that I will be speaking during the legislative session, and it's this bill —(Interjection)— Mr. Speaker, I warned the honourable members that I said "in all likelihood". Let them take those words as a caution. The fact is that there will be other bills presented. I have chosen this particular bill, Mr. Speaker, because, innocuous as it may seem to some, to me it is the most significant bill that has been passed by the government at this session, Mr. Speaker. And I predict, Mr. Speaker, that the Conservative Party will rue the day that they passed this legislation.

The fact is, Mr. Speaker, that the Honourable the Minister says that private associations have been recognized by the Legislature before and thus he didn't have to go to 1913 to find that the government by special Act legislated respecting an association. But, Mr. Speaker, in my experience — and if my honourable friend wants to find a horror story to give precedence to his new horror story he can go ahead and do so — in my experience, Mr. Speaker, this is the first time that the government of the day has chosen to say that one particular political organization will be the one recognized by the government for all of the cattle breeders or all of a particular group in the Province of Manitoba, and has then delegated, Mr. Speaker, has then delegated governmental power to that organization.

Now, Mr. Speaker, the honourable member has got up and said that the people in opposition were the National Farmers Union. And, Mr. Speaker, that remark is the germ of what is going on here today. What the honourable member is saying and inviting — and I hope that there will be people who will resist it in the future — that when the Conservatives are in power they will legislate the organizations that they consider friendly to be the ones who are representative of all farmers in the Province of Manitoba, and when the New Democratic Party comes to power that they will be invited to legislate the National Farmers Union to be the organization to which all farmers have to belong, and which is given governmental authority over farmers. And worse than that, Mr. Speaker, and worse than that the fact is that this will open the door and, Mr. Speaker, I hope that I am here when it happens, as it surely will happen, because I tell my honourable friends that no matter what they are doing now, I will resist it, that groups who think that they have had great weight and great pressure in getting the government elected will say, "Now that we have got you elected, you have got a precedent. You give us that power that the Conservatives were good enough to give to the organization that they thought helped them get elected."

And, Mr. Speaker, I suggest to you not only has it happened, that the National Farmers Union asked that of our group, the Federation of Labour will surely ask it — will surely ask it. They will say, "We want an organization. We want the Manitoba Federation of Labour to be the representative of workers in the Province of Manitoba. We want the percentage of everything they earn paid into the Manitoba Federation of Labour. We will give the right of a worker to opt out but he will have to come to us to get his money, and we will know who he is, and we will have that information available." And furthermore, Mr. Speaker, "We want you to give us the power to pass the regulation to go anywhere in the Province of Manitoba and get information from employers, from retailers, from other people, so that we can foster the interests of workers in the Province of Manitoba." And, Mr. Speaker, when we say that is an extraordinary thing, they will say, "Why extraordinary? It was done by the Conservatives. Aren't you as loyal to your friends as are the Conservatives?"

Mr. Speaker, when I spoke on this bill for the first time, I saw this particular provision and I posed the question — I didn't pose it very seriously but I posed the question — that it was a bureaucratic accident. I didn't accept that, because I said then and I say now because now they have confirmed it — the second time I got up on this bill I said I am sure they are not going to bring in this section. I am satisfied that now that it has been brought to their attention they are going to delete this section.

Mr. Speaker, that was what I thought. I thought that having had it brought to their attention they would delete it. But I said, Mr. Speaker, and now I have it confirmed, forgive them not for they know what they are doing. And they are all going to have to stand up and say "aye" or say "nay" to this amendment, Mr. Speaker, which doesn't do anything to prevent The Cattlemen's Association. And by the way, the amendment will focus on that suggestion. That doesn't mean that we consider the bill good as amended. If you accept this amendment, we will vote against the bill. If you deny this amendment, we will vote against the bill. There is nothing to prevent The Cattle Producers

today from incorporating, from being an organization which attracts cattle producers, from doing everything it says in this Act with the exception of two things. It doesn't give them governmental power to have a checkoff and it doesn't give them governmental power to get information from various other people under the threat that they will go to jail if they don't give the information.

Mr. Speaker, how many times does the Minister of Agriculture say to him that the First Minister or that Legislative Counsel says that I am speaking garbage, because, Mr. Speaker, the Act says any person who contravenes any provision of any regulation made under and in accordance with power or authority conferred by an act of the Legislature, this regulation made with the authority and conferred by an act of the Legislature is guilty of an offence and unless penalty therefor is otherwise provided by an act of the Legislature — and there is no penalty provided in this Act — is liable on summary and conviction to a fine not exceeding \$100 or to imprisonment for a term not exceeding one month, or to both such fine and such imprisonment.

The honourable member says that is garbage. The honourable member says that I am telling him an untruth. The honourable member says that I am giving him bad legal advice. No, Mr. Speaker, it is not garbage. That's what it is, and the honourable members who are saying that they are merely setting up a volunteer association, are putting into this Act, Mr. Speaker, and they will rue the day because some day some government Minister is going to get up and say, "There is a precedent before it." And we have heard how it has been used by members on that other side in various cases, Mr. Speaker. Oh well, it has been done; you have been doing it for all these years. You can't vote against it now. You have adopted this procedure. You can't vote against it.

It's a fraud to vote against it, Mr. Speaker. That's what they are saying. Well, Mr. Speaker, I suggest to you that this particular bill is completely unnecessary, that the members who are going to vote Nay to this resolution are saying that they want to confer upon a private organization, statutory power to enact a regulation requiring people to give information and if they don't give them the information, they are subject to a fine, or imprisonment, or both. —(Interjection)— Mr. Speaker, he says the cattlemen won't do that.

Mr. Speaker, I have what the milk producers did, I am now involved in a lawsuit by the milk producers. First of all, I want the Member for Roblin to tell me whether milk producers are as good as cattle producers, or are there equally good agricultural people in the Province of Manitoba? That is a question. The milk producers, with a regulation, Mr. Speaker, which can be overruled by the Lieutenant-Governor-in-Council, and having a marketing authority to deal with, which is much different from this, and if you made this a marketing authority, I wouldn't have these objections. The milk producers ask the people who they are selling to, who are trying to process cheese, to provide, Mr. Speaker: current assets, cash, temporary investments, receivables, inventories, prepaid expenses, other assets, investments, advances, deferred expenses, current liabilities, bank indebtedness, accounts payable and accrued — and I am reading what the good agricultural milk producers, under a regulation which I am now opposing in court, have sent to the cheese processors as information that they are entitled to from people they are selling their product to, and admittedly, Mr. Speaker, to find out how much the cheese producer is making so that they can squeeze him just so far but not far enough that he will go out of business. That is what the milk producers are doing. They are doing it; they are admitting it; they are saying it quite willingly. —(Interjection)—

Mr. Speaker, first of all, I don't think they have a right to it, and we are fighting it but I have indicated to you what people will ask for when you give them power. Under that particular Act, at least the Cabinet has a right to reverse the regulation. Under this Act, they don't have the right to reverse the regulation. Under The Natural Products Marketing Act, right in the Act — the honourable member again wants me to have to prove that to him — he is shaking his head. Under The Natural Products Marketing Board, the Cabinet has the right to revoke a regulation passed by one of the marketing boards. Mr. Speaker, under this Act the Cabinet doesn't even have the right to reverse the regulation. Under The Natural Products Marketing Act there is an appeal of the regulation. Mr. Speaker, this doesn't deal with the matter of who is in the association. Does the Minister really not understand, because I'll be up here, and other members will be up here, to try to explain it to him and maybe if he doesn't understand now and we explain it to him, he will vote for this amendment. You don't have to be in the association to have this information required of you. This information can be required from anybody.

Mr. Speaker, I'll read: The Association may make regulations as it deems necessary requiring information reporters to maintain books and records in relation to the production or marketing of cattle or beef, containing such information as the Association reasonably requires and to submit it, Mr. Speaker. So it doesn't refer merely to people who are a part of the cattle producers association; the honourable member knows that. It can be required of various kinds of people and you can't . . . I'll read to the member what it says in The Natural Products Marketing Act: "The Lieutenant-Governor-in-Council may amend or revoke any regulation, order or directive made by

a producer board or marketing commission.”

You can't revoke this one. This one is written in stone. You can't revoke this one. Mr. Speaker, we will prove whether it is written in stone. It is now written down. The Member for Lac du Bonnet has moved an amendment to prove that it is not in stone. All you have to do is vote for the amendment and it will not be in stone. —(Interjection)— Mr. Speaker, we don't expect that we will be able to run the government. What we expect to do is to convince the government —(Interjection)— No, Mr. Speaker, I don't expect to convince the government . . .

**MR. SPEAKER:** Order please. Can the members of the Chamber give the Honourable Member for Inkster the privilege of completing his statement. The Honourable Member for Inkster.

**MR. GREEN:** Mr. Speaker, we don't expect to convince the government. What we expect to do is require each member of the opposition side, the party that believes in freedom, free Manitoba, who now sets up, Mr. Speaker, one particular organization as governmentally sanctified to represent cattle breeders and, Mr. Speaker, indicates that they do it because the only objection comes from the other farm organizations, this is something which is unprecedented, it does not apply to labour unions in any way, Mr. Speaker. No labour union is given a checkoff unless they get a collective agreement with their employer and, Mr. Speaker, then it is not a named labour union. It can be changed year after year; all that has to happen is that the employees can say we want another one; and they can say, we don't want any, and there is no checkoff. There is no labour organization that is named as being recognized by the government, with the exception of the MGEA and maybe the Firefighters Association with regard to firemen. But, Mr. Speaker, in the ordinary industrial labour field, the government doesn't say, “we recognize the Steelworkers; we don't recognize CAIMAW,” even though one is attached to the CLC and one is not. As far as we are concerned, each of them has to obtain the support of their membership. —(Interjection)— Well, that's good.

Mr. Speaker, I say with respect to this bill that the proof that it is unnecessary is that the cattle breeders have come to the Legislature. If they had the support of the cattle breeders, they would get a bill and they would have an association like anybody else. The proof is that if they had that support, they wouldn't come here. If they don't have that support, then what the government is doing is giving governmental recognition to a political group of farmers in the Province of Manitoba. You will rue the day, Mr. Speaker —(Interjection)— Mr. Speaker, in Saskatchewan and B.C. the Minister of Agriculture has shown you that they do not have similar legislation and they do not have the power to get this information by means of regulation.

Well, Mr. Speaker, the honourable member requests an explanation. I give it to him hoping that it will have some effect on him. They do not have, under the other legislation, governmental power to require information and the power of the State to get that information by virtue of the threat of fine or imprisonment. That is the section we want you to take out. We still won't vote for your bill, but you, “free Manitoba” buffs —(Interjection)— the freedom fighters, yes, you the freedom fighters, we want you to stand up and vote Aye to this amendment and when you don't, Mr. Speaker, which you won't, we will see who stands for freedom in the Province of Manitoba by this vote, Mr. Speaker.

**QUESTION put on the amendment, MOTION lost.**

**MR. USKIW:** Yeas and Nays, Mr. Speaker.\$

**MR. SPEAKER:** Call in the members. The question before the House is the amendment proposed by the Honourable Member for Lac du Bonnet to Bill No. 25, The Cattle Producers Association Act.

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

**YEAS:** Messrs. Adam, Barrow, Boyce, Cherniack, Cowan, Desjardins, Doern, Evans, Fox, Green, Hanuschak, Jenkins, McBryde, Malinowski, Parasiuk, Pawley, Schreyer, Uskiw.

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

**MR. CLERK:** Yeas 18, Nays 30.

**MR. SPEAKER:** I declare the amendment lost. Shall the bill be concurred in? .

**MR. CHERNIACK:** Mr. Speaker, you mean the report be concurred in, do you, or are you calling the third reading of the bill?

**MR. SPEAKER:** No, no, the concurrence of the report of the bill.

**QUESTION put on Concurrence and carried (On Division).**

**MR. JORGENSON:** Mr. Speaker, I move, seconded by the Minister of Highways, that Bill No. 25, The Cattle Producers Association Act, be now read a third time and passed.

**MOTION presented.**

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

**A MEMBER:** One of the old farmers.

**MR. CHERNIACK:** Mr. Speaker, we have just heard from the breeder, who recognized that I rose to speak. —(Interjection)—

**MR. SPEAKER:** Order, order, order please.

**MR. CHERNIACK:** Mr. Speaker, as soon as the Premier grows up and stops behaving like a little boy, I would like to continue with . . .

**MR. SPEAKER:** Order, order please. The honourable members are making my job rather difficult. I hope that all members are prepared to allow any member of this Chamber to speak and give them the courtesy of listening to them. The Honourable Member for St. Johns.

**MR. CHERNIACK:** It would be well if the Premier wants to speak that he should stand up and speak, but then he is standing, I'm sorry. He should sit down when I have the floor.

Mr. Speaker, when this bill was first introduced for second reading by the Minister of Agriculture I spoke on this bill and said then that I did not pretend to be knowledgeable.

**MR. SPEAKER:** Order, order please. I hope that all members give the Honourable Member for St. Johns the courtesy of the floor. The Honourable Member for St. Johns.

**MR. CHERNIACK:** Mr. Speaker, I said that I did not pretend to be knowledgeable in the matters relating to cattle producers or their association, but, Mr. Speaker, I did say that I had an interest in justice and in legislation and in control.

Mr. Speaker, the Minister for Housing, known as "Smiley" to some, is again contributing from his seat. But, Mr. Speaker, I want to tell honourable members opposite that they have participated tonight in a pretty horrendous bit of legislation. Each of them, as they stood, should have realized what they voted for. I am not sorry that the First Minister has left the Chamber. I am indeed sorry that the Minister of Highways has left the Chamber because, Mr. Speaker, I really wanted to address myself to remarks that he made.

Mr. Speaker, when I read this legislation I was frightened by it. I said I knew nothing about cattle producers nor about their association, nor about their problems but I know enough to read legislation.

Mr. Speaker, I read Section 7(1) and I read that the association may make such regulations as it deems necessary, requiring information reporters to maintain books and records in relation to the production or marketing of cattle or beef, containing such information as the association requires and to submit to the association such information relating to the production or marketing of cattle or beef as the association may require.

Mr. Speaker, that gives power. That gives control. So I wanted to know whom they were going to control, Mr. Speaker, because I heard about opting out from the Minister of Agriculture. I looked ahead and I saw that this association may impose fees, compulsory checkoff. I read further and I saw, under whatever regulation, they said, "A person may ask for a rebate or refund of the fees paid." But, Mr. Speaker, it said nothing whatsoever about asking for a refund, about information required to give.

I looked to see who was controlled by the Cattle Producers Association that members opposite have voted for. And who was controlled? The information reporter. What is an information reporter, Mr. Speaker? It means any person who is engaged in the cattle or beef industry and it includes producers, and buyers, and sellers, and drovers, and auctioneers, and shippers, and transporters,

and processors, and retailers of cattle or beef.

**MR. GREEN:** It's horrendous.

**MR. CHERNIACK:** Any way you look at it, Mr. Speaker, the Cattle Producers Association, by their regulation, unilaterally, without reference to any other authority, without reference to the Cabinet of this Province, can order a retailer, a retail butcher, to give such information as they want, to maintain books and records such as they want him to maintain, to give information as they want, and as the Member for Inkster spelled out very clearly, if they don't do it, they are liable to fine and/or imprisonment.

Mr. Speaker, I didn't believe that they meant it. Mr. Speaker, I couldn't understand that any person in government would give up the powers of government to a private association to control others. Mr. Speaker, we've spent hours on the marital property legislation and I heard the Minister of Health say that in spite of his desire to see that spouses to a marriage are treated in partnership and dealt with fairly, the one thing he said that his party stands for is they do not want to enter into the private affairs of people. Why? He said that was a principle of his party. Mr. Speaker, I look at the Minister of Health and I say to him, what he has done here, and he voted on it just minutes ago, is to empower a private organization to pass regulations compelling other people, not members of the organization, to give to the organization such information as the organization demands and in the form demanded by them. He voted for that, to give the power to a private group of people, a select group of people who are elected from amongst themselves, to go out beyond that group, to go to retailers, to go to transporters, to go to drovers, to go to buyers, to go to people who are not producing cattle at all, force them to give information about their own affairs in relation to the sale of cattle, processors and retailers of cattle or beef, force them to supply the information that they decide that they want, without any control, without any review, without any appeal, but force them to do it. And the power, as read earlier, is to this fine or imprisonment if they fail to give that information. And this is the party and this is the Minister of Health, and I'm speaking to him directly because he's the one that talked about interference in the private affairs of people, is exactly the power, not that government is asking for, but that government has delegated to a private association to do. I was so shocked by that, Mr. Speaker, that I spoke on it immediately after the Minister of Agriculture, on second reading, and pointed it out, because I didn't believe that rational, fair-minded, principled people would agree to that. Now I know that we have a different philosophical approach than they do on many issues: economic, political and otherwise . . .

**MR. GREEN:** I'm glad to know it now.

**MR. CHERNIACK:** . . . but the matter of absolute justice, the matter of control over others is what the Minister of Finance voted for today, the First Minister voted for that today, passing control to a private body over other people. And some of them smile and some of them think boy, that's great. It's a joke, they think.

Mr. Speaker, there are members opposite whose integrity I have respected, there are members opposite whose intellectual capacity I do respect, there are members opposite who I believe are principled even when I disagree with them on various issues. But, Mr. Speaker, I cannot for the life of me fathom how they could support this kind of legislation, especially, Mr. Speaker, when it is not basically necessary for an organization of cattle producers — or any organization — to force strangers to the organization to give up information which may well be so confidential that it adversely affects their livelihood. Because it seems to me that if a producer of material can require his buyer, the person who buys from him and sells at retail, to give information about his profits, about his cost of operation, whatever, he is damaging or threatening his livelihood. I don't believe, I really don't believe, that members opposite, many of them, knew what they were voting for. And I don't entirely blame them because there is a great deal of delegation that goes on within any political group where certain people are charged with responsibility to carry out a bit of legislation and other Ministers and the caucus can well say Cabinet solidarity or caucus solidarity requires that I vote for it.

But, Mr. Speaker, they had lots of opportunity and that's what is so shocking to me. I can understand members opposite, responsible members opposite, saying, "Well, that's the Minister of Agriculture's responsibility and we've delegated to him that power, we honour him, he's our colleague, we will do as he says."

But they knew, Mr. Speaker, and what bothers me and the reason I rose to speak is that the Minister of Highways immediately realized that there was something wrong because he spoke after I did on second reading and he said — and it's on Page 2128 of Hansard, on May 12th — he said, "Every cattle producer can opt out of this Act, every cattle producer can opt out of this Act." He said it twice. And, Mr. Speaker, he said can opt out of this Act; he didn't say can opt out of



Section 7(1)(b) which deals with fees which they can do retrospectively. But he says they can opt out of this Act, not out of payment of the fees, opt out of the Act. And he said further, "And if the Honourable Minister hasn't made that plain, we will make that plain and we will change whatever regulation that doesn't make it plain. But I want to make it plain that every cattleman, — the Minister is nodding, he's nodding consent, that every cattle producer can opt out of the provisions of this bill."

Mr. Speaker, would you picture this? The Minister of Highways was standing there and he says they can opt out of this Act. And he turned and he said the Minister — referring to the Minister of Agriculture — is nodding his head, and I confirm, he says, "that every cattle producer can opt out of the provisions of this bill." Oh, he's back. I'm glad he's back, Mr. Speaker. I am quoting: "But the cattle producer who opts out of this bill is still liable to give the information that's required. —(Interjection)— Oh, I've just been corrected and updated. The cattle producer then can opt out, but the person who is not a member of the cattle producers, if he's buying, if he's retailing, he can't opt out. This is even worse, Mr. Speaker. Now I learn — and I admit that I wasn't aware of this nuance — that the cattle producer can opt out of the effects of this bill and I give credit, the Minister of Highways guaranteed that that would happen. But the people over whom the cattle producers have been given control, under Section 7(1)(b), those people that are euphemistically called "information reporter," they are the ones who can't opt out of this bill. They are the people who are engaged in the industry: producers, buyers, sellers, drovers, auctioneers, shippers, transporters, processors and retailers; they can't opt out. Well, I have to agree, and I've learned this much, that the Minister of Highways indeed, when he said, "I make you that holy commitment, that if it isn't crystal clear in this bill, we will make it crystal clear in this bill, that any producer can opt out." He honoured his holy commitment, and he's proud. —(Interjection)— Well, he's proud, but it's pointed out that if the producer is also a retailer, if the producer is also a buyer, he can't opt out. But that's in a different category.

So, I tell the Minister of Highways, his holy commitment was met, but the unholy part of what he has done is to support the control over others. And indeed, I looked to see what the Honourable Minister of Highways said when he spoke on July 6th on the six-month hoist. He said, "In Committee, we introduced those amendments that we deemed to be advisable, either initiated by the government side or indeed, accept those amendments that I'm sure will be made, even if it's a simple amendment that the bill not be reported, and at the conclusion of the Committee hearing, that's the time that you will have the opportunity to look at those intentions, those plans, for the government to change or alter the bill that we are now debating in principle." And he said, "You know, the principles are very stark and very clear, and very understandable to all cattlemen." I'm quoting him from Page 4862. "It means the cattlemen can do their own thing; it means the cattlemen want to have the money to do their own thing, and it means the cattlemen can do these without the daily and constant harassment and interference of government. That's the principle of the bill."

That's the principle that the Minister of Highways espoused and that his colleagues have voted for, and let us remember that the cattlemen are getting what he said they would; that they can do their own thing, they'll have the money to do their own thing, and can do it without the daily and constant harassment and interference of government. They don't need that. Under this bill, they can constantly harass and interfere with all those people who are called information reporters, who are not necessarily cattlemen, who are not necessarily people who could even belong to the association if they want to opt in, and that's the kind of control that honourable members opposite have voted for.

**A MEMBER:** But they're the good guys.

**MR. CHERNIACK:** Well, it's suggested that they're the good guys. I still believe that there's enough integrity amongst some of the members opposite to realize that what they have just voted for is a horrendous bit of legislation. Power and control over others, not over themselves, but over others, and all that is being done in the interests of what, Mr. Speaker? What big deal is involved in this, other than commitments and promises on the election platform? The cattlemen want the right not to be harassed, but to educate themselves and others, develop improved marketing methods, initiate, support or conduct programs for stimulating, increasing and improving the economic well-being of cattle, and to do that, and to raise the money to do that, they are actually being given the power by this government to have a whip over other people, to have a power to command other people, to comply with their requests for information in the manner in which they wish it, and penalties go with failure to do that.

Mr. Speaker, I have had experience with legislation, I have had experience with reading legislation and I don't recall this kind of power being passed on to others. I don't recall that elected representatives are willing to give to others who are not elected representatives, and therefore not accountable to the people, this kind of horrendous power, and I am ashamed, Mr. Speaker, for

what I am witnessing, I have witnessed already, will witness soon, that has been done by a Conservative government, which I never believed would be done by a Conservative government. And I don't believe that I have that much faith in a Conservative government but I really never believed that they would stoop to this low level of passing power and control over other people to a private organization. Mr. Speaker, it is, I think, a very sad state of affairs, that they didn't see the sense to removing what really should not be that great a principle, but has become one because of their stubborn insistence on doing what they have done at the insistence of a particular association, a particular group of people. Talk about class warfare, Mr. Speaker — and they talk about class warfare; talk about splitting people — and they talk about that; talk about freedom — and they talk about that; talk about lack of control — and they talk about that; it is a disgrace, Mr. Speaker, that we are able to see, at this time in the session, at this hour of the day, the depths to which they have stooped to carry out what really should not be a very vital piece of legislation, but which they have made that way because of their really stupid, stubborn approach to carrying out what they said long ago they would do.

**QUESTION put, MOTION lost.**

**MR. JORGENSON:** Yeas and Nays, Mr. Speaker.

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

Order please. The motion before the House is third reading on Bill 25.

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

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

**NAYS:** *Messrs. Adam, Barrow, Boyce, Cherniack, Cowan, Desjardins, Doern, Fox, Green, Hanuschak, Jenkins, McBryde, Malinowski, Parasiuk, Pawley, Schreyer, Uskiw.*

**MR. CLERK:** Yeas 29, Nays 17.

**MR. SPEAKER:** I declare the motion carried.

**BILL NOS. 29, 35 and 47** were each read a third time and passed.

**BILL NO. 57 — AN ACT TO AMEND THE PUBLIC SCHOOLS ACT**

**MR. JORGENSON** presented Bill No. 57, An Act to Amend The Public Schools Act, for third reading.

**MOTION presented.**

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

**MR. DOERN:** Mr. Speaker, I wanted to make a brief comment on this particular bill, because I feel that there are certain questions that have not been answered by the Minister of Education and that there are certain assurances that the government should give to us prior to the passage of this Act. I have a number of questions that I would like to put on the record that the Minister can either answer now or, if he chooses to, to answer or deal with at another point in time.

I don't know if it was made clear or not during the debate, whether or not there were assurances given by the government, in particular by the Minister or by the First Minister, to supporters of private and parochial schools that there would be legislation introduced in this session, or whether there were assurances given to private and parochial school supporters after the election and up to the present time. Again, I don't know whether or not the Minister has provided us with an accurate financial estimate. He talked about a figure of \$1.2 million and I believe that that figure was in fact a guesstimate rather than an estimate.

If there is going to be an enrichment of the private and parochial schools because of increased public assistance, and an extension of the same, I am interested in the question of whether or not there will be more basic or adequate support given to the public school system.

Another question, Mr. Speaker, is whether or not there will be new inspectors hired by the Department of Education to determine whether or not the curriculums of the private and parochial schools are in line with the direction of the Department of Education. Mr. Speaker, I find it very difficult to grasp the fact that the courses in the private and parochial schools are going to be taught in the same manner as the courses are in the public schools. For example, it was more typical at one time that the parochial schools would take certain courses at the public schools, such as perhaps science, physical education and so on. Now, all the courses that were, I suppose, traditionally considered to be amenable to a bias or a preference, such as history or English, in addition to the obvious amount of time that would be allocated to religion, will now in fact be taught in the private and parochial schools and moneys will be sent for them.

So I ask the Minister, is he telling me that there will be no difference whatsoever between the teaching that goes on in those schools, with the exception of religion, and the teaching that goes on in the public schools? That is what I want to know, because if those courses are going to be taught in a particular way, then I think we have some explanation forthcoming from the government, if the government is going to, in effect, subsidize courses that are going to be taught from a particular religious or other viewpoint. Because in the public school system, Mr. Speaker, you pay your money and you take your chances. You may have a teacher who tends to favour a particular political party or a particular religion, that may happen, but in the scheme of things, the chances are that you will have a variety of people or that you will be taught by somebody who is, in effect, neutral in regard to those particular issues.

If inspectors go out, will the Minister have the guts to enforce their findings, or will he have the guts to direct them to clamp down on any abuses in the private or parochial schools? Or will it be the old game that went on for many years in Manitoba in regard to certain breaches of legislation, of hide the books and honk the horn three times when the inspector is coming, to give people a warning so that they can fool the inspector?

The other question, Mr. Speaker, is why is he putting the school boards in the front line rather than the department itself?

So, Mr. Speaker, my concern here is for the public school system, that we continually improve it, and I don't want to see a deterioration of the public school system.

Mr. Speaker, one could speak at great length but I would simply sum up by making the following points that under shared services, private and parochial schools could obtain free textbooks and rides on the public school buses and had the right to access to any portion of the public school that they wanted. Under this bill, private and parochial school students will have their own smaller but shiny new van that will attempt to pass the large, old, crowded public school bus. I think there will be some considerable appeal to that newer and richer system and this will result, as I have indicated before, in a reduction in the population of the public school system.

I suppose the alternatives for these schools would be in some cases to have lower fees with the same standards and the same facilities, and more students. Or if they hold the same fees, they will have better standards and better facilities and that, too, will attract more students.

So I say, Mr. Speaker, that this bill, which is touted as being simply a legitimization of past practices, really, in effect, is not shared services at all. It marks the end of shared services as we know the concept, as we understood the concept, and has been in effect in this province, I guess for the last 13 or 14 years. Of course we know there were extensions made in it by the previous governments and by our government, but it is the end of shared services and it is a misnomer to refer to this legislation as shared services. It really is, of course, the beginning of direct aid to private and parochial schools and my concern is that it may also mark the decline of the public school system as we know it today.

**QUESTION put, MOTION carried.**

**MR. COSENS:** Yeas and Nays, Mr. Speaker.

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

The question before the House is third reading on Bill No. 57.

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

**YEAS:** Messrs. Adam, Anderson, Axworthy, Banman, Blake, Boyce, Brown, Cosens, Craik, Desjardins, Domino, Downey, Driedger, Enns, Galbraith, Gourlay, Hanuschak, Hyde, Johnston, Jorgenson, Kovnats, Lyon, MacMaster, McBryde, McGill, McKenzie, Malinowski, Mercier, Minaker, Orchard, Mrs. Price, Messrs. Ransom, Schreyer, Sherman, Spivak, Steen, Wilson.

**NAYS:** Messrs. Barrow, Cherniack, Cowan, Doern, Evans, Fox, Green, Jenkins, Parasiuk, Pawley, Uskiw,

**MR. SPEAKER:** Does the Honourable Member for Flin Flon have a point of order?

**MR. THOMAS BARROW:** Mr. Speaker, I meant to vote against that bill. I wonder if I could have my name changed?

**MR. JORGENSON:** Mr. Speaker, I suggest that we record the vote as the honourable member has suggested.

**MR. CLERK:** Yeas 37, Nays 11.

**MR. SPEAKER:** I declare the motion carried.  
The Honourable Government House Leader.

**BILL NO. 60** was read a third time and passed.

**MR. JORGENSON** presented Bill No. 62, An Act to amend The Rent Stabilization Act for third reading.

**MOTION presented and carried. (By Leave)**

**MR. PARASIUK:** Yeas and Nays, Mr. Speaker.

**MR. SPEAKER:** Call in the members. Is it agreed on Division?

**BILL 62** was read a third time and passed. (On division)

**MR. SPEAKER:** The Honourable Member for Fort Rouge on a point of order.

**MR. AXWORTHY:** Mr. Speaker, I understand that the House Leader called for a division on order. Was it on division that the vote was recorded — on division? Then if the vote was to be recorded, I would be against that motion then.

**BILL NO. 65 — AN ACT TO AMEND THE HUMAN RIGHTS ACT(2)**

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

**MR. JORGENSON** by leave, presented Bill No. 65, An Act to amend the Human Rights Act(2), for third reading.

**MOTION presented.**

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

**MR. AXWORTHY:** Mr. Speaker, I don't intend to speak to the merits or principles of the bill, but simply to raise an issue that I have raised at the second reading and raised again in the committee, and that is the inadequacy of the particular bill in dealing with an issue that I attempted to bring forward as an amendment to The Human Rights Act under a private member's bill, dealing with the question of discrimination as it applies to economic contracts, so that we can deal with questions of boycott.

Mr. Speaker, after the amendment I made at the Committee was ruled out of order, I was made to understand that there may be an inclination on the part of the Attorney-General to deal with this matter and to refer the matter for some action by the government, and I would simply like, before this vote is taken and recorded, to ask the Attorney-General if he might be prepared to speak to this matter and explain, because we had no opportunity to debate this in the House because it was held by the government side without any debate, as to what the intention of the government might be. t\$

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

**MR. PAWLEY:** Mr. Speaker, I want to indicate that although the opposition supports the clause dealing with affirmative action, that is a move forward in the legislation, we are firmly opposed to the section dealing with the introduction of legislation to provide for discrimination in Autopac based upon age, sex, marital status.

We shall look forward, we shall look forward in the future as to the reason that the government saw fit to insert marital status as the grounds for differential in Autopac rates. At this point, we can feel assured that the government has something in mind in that respect, therefore why introduce this legislation?

For that reason, Mr. Speaker, we are left with no alternative but to oppose the bill, despite our support for the section dealing with affirmative action.

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

**MR. MERCIER:** Just very briefly, Mr. Speaker, with respect to the proposed amendment at Committee to this particular bill. I indicated to the Member for Fort Rouge that I would make a comment to indicate our position on this side in support of the principle of the amendment, which he was proposing, but that in our review of the proposed amendment there were some impracticalities and difficulties caused by the wording that was used that would affect some normal operations that I'm sure that he did not contemplate.

But we do support the position against the secondary and tertiary boycotts that have been attempted to be imposed. I intend to review this matter carefully prior to the next session and perhaps deal with it at the next session.

**QUESTION put, MOTION carried. (On division)**

**BILLS 66, 69, 71, 17** were each read a third time and passed.

**MR. JORGENSON:** Will you call Bill 45 for second reading, Mr. Speaker?

### **ADJOURNED DEBATES — SECOND READING**

#### **BILL 45**

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

**MR. FOX:** Mr. Speaker, I adjourned this bill for our leader.

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

**MR. SCHREYER:** Mr. Speaker, Bill 45, as you can well see, is the main supply bill for this session and for this fiscal year. It is one which, by definition, has received a great deal of scrutiny and consideration in its preliminary stages. And by that I mean the many hours and days that were spent here in Committee of the Whole and Committee of Supply.

Bill 45 is nothing more than the setting forth in bill or statute form all of the decisions which flow from the Estimates review process, starting out with Executive Council . . . Well, really starting out by way of administrative, a preliminary recommendation to Executive Council, perusal and vetting by Executive Council, recommendation to the House, etc. And for all of these reasons, even though there is much that is substantive and stands at the very heart of the deliberations of this Legislature contained in Bill 45, for all the reasons I have already given it is not my intention to take any great deal of time to recapitulate much that has already been said, and said more than once in this Chamber.

Still, it is incumbent upon me to say to honourable members and to say to the public of this province that the fiscal policies of this government, the recommendations of Estimates of this government, the proof of it all really lies in terms of what actually happens between now and the end of the current fiscal year.

There is no point in my reviving the debate that took place for some 40 hours, approximately, as between my colleagues, the Member for St. Boniface, the Member for Seven Oaks, and others, for example, and the Minister of Health, just to take the example of one department, as to whether the Estimates that were recommended to us with respect to that department will prove to be realistic.

It is, by definition, our contention that in the face of the kind of inflation, rate of inflation, that is burning away at work in our country at the present time — and our province is no exception — that realistic financing for our health care institutions is certainly something measurably more

than 2.9 percent. Still, that has been a point well made and repeatedly made and I only take cognizance of it in passing, here this evening.

Much has been said during the course of the consideration of Estimates as to the allegedly substantial and important changes taking place with respect to the public service and the size of our public service. I realize full well, Sir, that there is a mood that is a mood that is afoot in our province, in our country, and, indeed, in our continent with respect to people being somewhat uneasy of and suspicious of any further incremental growth in the public service and in government activity generally. Still, it will be interesting to see in actual fact the extent to which there is any change and the degree of that change in the size of our public service.

Reference has been made repeatedly by some honourable members opposite about some 1,400 and then 1,600 positions in the public service having been terminated or abolished. In the final analysis, fortunately, there is a running statistical record kept not just by ourselves but by Statistics Canada for this and every other provincial jurisdiction in the country as to what the actual numbers on the provincial payroll are across the country. And when one keeps tab not of positions but of actual numbers of persons employed and on the payroll of the public service in the public service of this province, then that is a number and a figure considerably and significantly different than the 1,700 or so that has been referred to.

In addition to that, it will be interesting to see whether in the Estimates of spending that are now embodied in Bill 45 before us, the extent to which it will be necessary to authorize the spending of money to pay for those who have been recently recruited into the public service. And that is a subject which has not got very much attention or publicity, but I venture to say, Sir, that before we are even midway into the current fiscal year, indeed at just barely after the end of the first quarter of this fiscal year, that one can say that there are something in the order of 150 to 200 recruitments, new hirings, of personnel into the public service. So when that is outset against the numbers of persons actually employed that were terminated some months ago, then the net figure will prove to be substantially different than that which was being mooted about, namely some 1,500 or so. It will be something substantially less than 1,000; it will be something substantially less than 700.

In addition to that, much has been said in consideration of the Estimates, both current and capital, indeed I should pause to reflect and remind myself that we are going on to a new system of bookkeeping, that the system of bookkeeping that was used by this province for exactly 20 years is passing and I have no feeling of regrets about seeing the passage of one form of bookkeeping for another, but I do, even at the risk of being labelled as one who seeks consistency too much and some wit, or half-wit, has been known to say that it's in this generation or the previous that consistency is the hallmark of small minds. Be that as it may, consistency is important toward honourable dealing in public affairs. We feel that we can perceive, Mr. Speaker, that in applying a consistent form and method of . . . accounting, be it the consolidation of current and capital accounts, for the first time in more than 20 years, that on a consistent basis of accounting, we venture to say that by the end of the current fiscal year, given the nature of the estimates before us, and given the amount of supplementary supply that has been put before us, given the fact that we simply do not believe, Sir, that a 2.9 percent increment in financial support to our health care institutions will prove to be realistically sufficient and that this will require some manner and amount of adjustment and adjusting action on the part of the province, later in this fiscal year, that by the end of this fiscal year, the amount of the budgetary deficit of the Province of Manitoba will prove to be, in my view, in the current fiscal year, within 3 to 4 percent of the deficit of the previous fiscal year.

Now there is no point in haranguing or taking much more time of honourable members at this hour to engage in an I-told-you-so type of argumentation. This is our considered view and opinion. We place it on the record and not some inordinate amount of time but a matter of months, to the end of the current fiscal year, will tell whether in fact there has been substantive change insofar as the overall fiscal position of the province is concerned and its deficit in particular, even putting it on the basis of the consolidated current and capital accounting basis.

So for these reasons, we are not so much admonishing as suggesting and cautioning to honourable members opposite and members of the Treasury Bench in particular, members of the Cabinet in particular, that we feel that Bill 45 embodies all that went into debate here at this session, but it also will prove to be something which will not prove to be sufficient. Particularly we see this with respect to health care institutions; we see it with respect to post-secondary institutions. Maybe not this fiscal year but the next, we will be . . . No, no, this will be with respect to this fiscal year. And insofar as the next fiscal year is concerned, while I feel it is pressing, it is not something which will necessarily force the government into any change of attitude or course until the next fiscal year. And I refer to the amount of support by the province for local government, municipal and school division.

But just so that there is no confusion or misunderstanding, I am saying that with respect to health care institutions, that it's not a case of waiting until the next fiscal year. There will be a

of totally inadequate funding that will be causing remedial action before the end of this fiscal year. No one can seriously rise here in this Assembly and suggest that the level of funding which has been passed before this House which is embodied in Bill 45, will be sufficient to enable our health care institutions to function at a standard and at a level that will prove to be acceptable, particularly to those who are intimately involved and knowledgeable in terms of its day-to-day operation. We have seen merely the vanguard of signs of problems already and these problems all emanate from one stark fact, at a time I believe every province in this country has found it necessary ; and not because of any desire to spend freely, but because of necessity and realistic analysis, every province has found it necessary to make adjustments to the operating budgets of hospitals and nursing homes in the order of 7, 8, 9 percent, that an adjustment in the order of 2.5, or 2.9, or 3.0 percent simply cannot be realistic.

We know, too, that Bill 45 is to be looked at not only in terms of an anticipated budgetary deficit of \$120 million, plus or minus, that certainly remains to be adjusted in the light of reality. I've already ventured to put on the record what I believe that will ultimately be in the current fiscal year. But in addition to that, Bill 45 is to be viewed in the context of a fiscal policy of this government which has cost some revenue to the public purse in the public interest and the public service, revenues which amount to something in the order of 2 to 3 percent of the total budgetary requirements of this province, revenues which have been given up, not because of necessity but because of prior commitment to serve certain social goals which we find to be, quite frankly, reprehensible.

There is a double-barrelled reason for finding that course of action unacceptable. Not only has the public purpose and service of this province and its programs for — what are the words in the prayer, Sir? — "the greater welfare and prosperity of all our people." Not only is that not being served by fiscal policies that result in breaks, to put it bluntly, being given to those in substantial and higher income categories, but which also witness the conveying of substantial estates in the order of a third of a million dollars and more without any taxation to the public good being involved. I know there are some who persist in believing that this is somehow commonplace. The fact of the matter is that no country in the industrial free world has a fiscal policy in which there is no succession duty or estates tax. The only exception and it is only a partial exception, is Canada, and Canada is a partial exception, I say, because at least 60 percent or more of Canadians still live with a succession duties tax just as do the populations of every other country in the industrial free world. A minority of Canadians live under an arrangement now, fiscally, in which there is the transmission or the conveying of estates, whether it be half a million, one million, two million, five million, it doesn't matter, there is no taxation for the public purpose, for the public good and there is indeed then the perpetuation of a distinction based on wealth and under an income.

This is characteristic of a philosophy which, quite frankly, for those who wish to see greater equity and equitability in society, can only be extremely disappointed. That is not entirely divorced from the fiscal issues and budgetary policies which lie behind and lie within the contents of Bill 45. Bill 45 is to be construed as something much more than simply a totalling up of the estimates of spending required by the several departments. It also has to do with fiscal policy and philosophy.

These points that I have made, Sir, have been well made, I believe, by others of my colleagues and myself during the course of the past three months. I feel that they do deserve recapitulation because they stand at the essence of the difference between honourable members opposite and ourselves. It is a temptation to speak at greater length and with greater fervour on this matter but in the final analysis, Sir, it is time itself which proves to be the determiner of judgment, and in that connection, we leave it to the public of this province to ascertain, after the passage of some time, not very much, just where and whose interests are being served by a government such as a Conservative Government and one that makes equal effort to represent those who, for reasons partly of fate, partly of choice, partly of ancestry, may be in somewhat different income positions — partly by fate as I say. We cannot feel satisfied with a government that would want to introduce fiscal measures that give so little hope to those who live in the middle and below middle-income stream in our society, and fiscal policies which, in order to catch up and make up for the difference lost through the abolition of succession duties, and through the greater exemptions allowed to corporations and to a somewhat admittedly more generous tax treatment of those in upper income echelons, results in definition on a relatively larger burden to be carried by the others.

In the final analysis, Mr. Speaker, we look forward to the next session and to the fiscal accounting that will be taking place then and as a result, I feel that there is no need to take your time, Sir, and the House, any more time at 12:40 in the morning.

**QUESTION put, MOTION carried.**

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

**MR. JORGENSON:** Mr. Speaker, I move, seconded by the Minister of Finance, that Mr. Speaker

do now leave the Chair and the House resolve itself into a Committee of the Whole to consider and report the following Bill for third reading: Bill No. 45.

**MOTION presented and carried** and the House resolved itself into a Committee of the Whole with the Honourable Member for Radisson in the Chair. Consider Bill No. 45, with the Honourable Member for Radisson in the Chair.

### COMMITTEE OF THE WHOLE HOUSE

**MR. CHAIRMAN, Mr. Abe Kovnats:** The matter before the House is Bill 45, An Act for granting to Her Majesty certain sums of money for the fiscal year ending 31st day of March, 1979, and to authorize the commitment of additional moneys for expenditures in subsequent years and to authorize the borrowing of funds to offset the anticipated operating deficit.

Page by page? Agreed? (Agreed)

**BILL NO. 45** read page by page and passed.

**MR. CHAIRMAN:** Call in the speaker.

*The Chairman reported upon the committee's deliberations to Mr. Speaker and requested leave to sit again.*

### IN SESSION

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

**MR. KOVNATS:** Mr. Speaker, I beg to move, seconded by the Honourable Member for Wolseley, that report of Committee be received.

**MOTION presented and carried.**

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

### THIRD READING — GOVERNMENT BILL

**BILL NO. 45** was read a third time and passed.

### BUSINESS OF THE HOUSE

**MR. JORGENSON:** Mr. Speaker, I move, seconded by the Member for Inkster, That:

WHEREAS on December 5, 1977, the Report of a Special Committee to prepare a list of members of the Standing Committees ordered by the House, setting out a list of members to compose the Standing Committees ordered by the House was received;

AND WHEREAS the memberships of the Standing Committees ordered by the House have been varied from time to time by resolutions passed by the House;

AND WHEREAS it is advisable to re-establish the memberships of the Standing Committees ordered by the House as herinafter set out;

THEREFORE BE IT RESOLVED THAT the memberships of the Standing committees ordered by the House be confirmed in accordance with the following list:

**PRIVILEGES AND ELECTIONS (11):** Hon. Messrs. Banman, Sherman, Messrs. Anderson, Boyce, Desjardins, Hyde, Kovnats, Malinowski, McBryde, McGregor, McKenzie.

**PUBLIC ACCOUNTS (11):** Hon. Messrs. Cosens, Craik, Messrs. Blake, Cherniack, Einarson, Miller, Minaker, Orchard, Parasiuk, Schreyer, Wilson.

**PUBLIC UTILITIES AND NATURAL RESOURCES (11):** Hon. Messrs. Craik, Enns, MacMaster, Ransom, Messrs. Axworthy, Doern, Ferguson, McBryde, Minaker, Schreyer, Steen.

**AGRICULTURE (11):** Hon. Mr. Downey, Messrs. Adam, Anderson, Bostrom, Einarson, Ferguson, Galbraith, Gourlay, McGregor, Uruski, Uskiw.

**MUNICIPAL AFFAIRS (11):** Hon. Messrs. Johnston, Mercier, Messrs. Brown, Corrin, Domino, Driedger, Gourlay, Miller, Minaker, Pawley, Uruski.



**LAW AMENDMENTS (30):** Hon. Messrs. Cosens, Enns, Jorgenson, Mercier, Hon. Mrs. Price, Hon. Messrs. Sherman, Spivak, Messrs. Anderson, Axworthy, Barrow, Boyce, Brown, Corrin, Domino, Doern, Driedger, Evans, Ferguson, Galbraith, Green, Hanuschak, Hyde, Jenkins, Kovnats, McKenzie, Orchard, Parasiuk, Pawley, Steen, Walding.

**PRIVATE BILLS (11):** Hon. Messrs. Downey, McGill, Ransom, Messrs. Adam, Blake, Bostrom, Cowan, Einarson, Hyde, McGregor, Uskiw.

**INDUSTRIAL RELATIONS (11):** Hon. Messrs. Cosens, MacMaster, Hon. Mrs. Price, Hon. Messrs. Sherman, Spivak, Messrs. Cowan, Fox, Green, Jenkins, McKenzie, Wilson.

**STATUTORY REGULATIONS AND ORDERS (11):** Hon. Messrs. Johnston, Jorgenson, Mercier, Ransom, Messrs. Cherniack, Desjardins, Domino, Driedger, Gourlay, Malinowski, Hanuschak.

**ECONOMIC DEVELOPMENT (11):** Hon. Messrs. Banman, Enns, Spivak, Craik, Messrs. Axworthy, Barrow, Brown, Evans, Green, Orchard, Wilson.

**RULES OF THE HOUSE (8):** Hon. Messrs. Jorgenson, McGill, Messrs. Blake, Fox, Green, Kovnats, Steen, Walding.

For the benefit of my honourable friends, it is a motion which suggests that all the committees revert back to their membership as of December 5, 1977.

**MOTION presented and carried.**

### REPORT STAGE

**MR. JORGENSON:** Will you call Bills 38, 39 and 41 for Report Stage.

### BILL NO. 38 — THE MARITAL PROPERTY ACT

**MR. SPEAKER:** Report Stage on Bill No. 38, The Marital Property Act amendment, the Honourable Member for St. Johns.

**MR. CHERNIACK:** Mr. Speaker, I assume that you would prefer all amendments by each individual to be dealt with first, even though they are out of sequence. I suppose it is all right. I think it might have been better to do it in sequence, but I'll go ahead with the way the Order Paper provides.

I move, seconded by the Honourable Member for Selkirk, that Section 13 of Bill 38 be amended:

- (a) by striking out subsection (2) thereof;
- (b) by striking out the figures "13(1)" in the first line of subsection (1) thereof and substituting therefor the figures "13"; and
- (c) by striking out the word "family" in the third line thereof.

**MOTION presented.**

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

**MR. CHERNIACK:** Mr. Speaker, in introducing this, the first amendment that I have to propose, I want to comment on the committee hearings, which I think took some 40-odd hours, to pay my respects to all of the people who brought briefs and had well-prepared, well-presented briefs. I think, Mr. Speaker, that this is probably the third time, if not the fourth time, that we heard a number of the speakers who came to tell us about their concerns and give us advice. I can say that in my opinion, they improved from time to time, speech to speech, and when they come back, as indeed they will, Mr. Speaker, I am sure that they will make even greater contributions.

I want to recognize that the presentations that they made, and there were 50 on this last occasion, I believe, had a great deal to do with influencing Members of the Legislature to think positively in terms of correcting outdated, archaic legislation in the past. And when I say that, I refer to all MLAs who heard them, both members of the New Democratic Party and, I believe, members of the Conservative Party. I think that much of any success that can be attributed, much of any advances that have been made in legislation in marital property law, is as a result of their dedicated effort and their well-presented briefs and the lobbying which took place, about which many of us probably will never learn.

I want also, Mr. Speaker, to indicate that I believe that the Attorney-General gave a great deal of attention to all that was said. I compliment him on the way he behaved throughout the hearings. He showed a clear sincerity and a clear desire to do what could be done in accordance with what he thought could or should be accomplished. I put it in that way, Mr. Speaker, because I am not satisfied with what he has done or what he failed to do, but I do believe, and I believe this sincerely, Mr. Speaker, that he probably had a pretty tough time in his caucus to make the progress which he did make. And on that basis, I do give him credit, but more particularly for the way he listened to all that was said, the way he listened, not only to the delegations but to the members of the opposition who tried to persuade him to improve the bills, and in some respects, he took advice and did it graciously.

Mr. Speaker, this particular amendment deals with discretion of the court in dealing with two classes of assets, one the family asset and the other is the commercial asset. I want to comment that there was a newspaper report in the last day or two of a statement made by Jack McJannet, the president of the Manitoba Bar, where he expressed criticism of whoever it was who made comments at the committee that indicated, and I unfortunately threw out the clipping so I can't quote him, but it was something to the extent that he deplored the fact that people who spoke in opposition to the bills questioned the ability of judges to render impartial decisions as between husband and wife. I don't know just to whom he referred. I do not believe that there was a strong attack on the judiciary, but I think clearly that there was criticism of past decisions and concern that courts would have to pay very close attention to changes that have been made and that will be made, and changing attitudes, because the decisions of the past have shown that courts have been very slow in recognizing the contribution of the non-earning spouse to the ability of the family to gather the assets and to acquire assets and to save them. I don't think he was justified. I think that it is blinding yourself to believe that the tradition of all the male judges, all the male lawyers, all the male members of society to think of the female member of the family as being somewhat lesser, could not be overcome that easily and I would say that it is not an unfair statement to express a hope that judges will accept the concept of equal sharing in an open and forthright manner. Frankly, Mr. Speaker, I believe they will, once they know clearly what the legislation intended them to do.

Specially with this proposed amendment, Mr. Speaker, we heard a great deal of discussion as to the difference of discretion that would be given to the courts to vary the presumption of equal sharing to a degree dealing with family assets, and to a different degree dealing with commercial assets. It is my opinion, buttressed by some opinions of pretty competent lawyers, that the discretion for dealing with commercial assets is much broader and indeed is rather broad, than dealing with family assets. There has been a great deal of suggestion, however, that the difference is very minor, very little difference. The difference between "grossly unfair or unconscionable," the phrase referring to family assets, and between "clearly inequitable," the phrase dealing with commercial assets, it has been suggested, is very fine and not very great. We propose, Mr. Speaker, to eliminate the distinction and therefore eliminate the discussion, although we don't agree with discretion of any broad extent, the wording under Section 13(1) is the wording which was our wording as related to commercial assets, but the Attorney-General, or whoever drafted the legislation, took that wording and applied it to family assets, where in the present legislation that was passed last year, there was no discretion dealing with family assets.

Therefore, accepting the wording in 13(1), what we propose here is that 13(1) be made to apply to all assets and that, then, would eliminate Section 13, subsection (2), which made that form of distinction. That is the purpose of this amendment.

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

**MR. MERCIER:** Mr. Speaker, I would like to join with the Member for Selkirk in expressing appreciation on behalf of members of this side of the House in thanking all of the people who have made representations, , and I can only speak for the period since last August, but of course there have been numerous representations made since that time and there are still some dedicated members of those groups even with us at this early hour in the morning.

I would also like, Mr. Speaker, to extend my appreciation to all members of the committee, both on our side and to members opposite, particularly the Member for St. Johns and the Member for Selkirk and the Member for Transcona, for their very active participation in the work of the committee, which I believe was accepted almost as a non-partisan approach to the whole issue, as much as we can possibly do that.

I think, too, Mr. Speaker, I would be remiss if I did not acknowledge, on behalf of all members of the committee, the work done by Legislative Counsel, Mr. Tallin, who, in my first experience at the committee, virtually performs miracles in drafting for the committee in a short period of time and that was obviously of great assistance to the committee.

Mr. Chairman, this of course has been a very difficult piece of legislation for anyone to contend with. There are those segments of the community who have said we are going too far. There are those segments of the community who have said we are not going far enough. We hope, Mr. Speaker, in the next while to carefully monitor the cases that develop in not only this province, but developments in all other provinces of Canada where matrimonial reform legislation has been introduced and is in effect. No doubt, through this process, Mr. Speaker, I expect that there will be improvements that we can introduce into this legislation in future years as a result of this experience.

Mr. Speaker, this particular piece of legislation does recognize the major deficiency in the Common Law, so well known to the Members of the House and members of the community, that is to recognize the non-economic contribution of a spouse to a marriage. We believe that the provisions relating to the presumption of equal sharing will apply to the vast majority of cases in Manitoba, but that some basically judicial discretion is necessary.

Mr. Speaker, I don't want to speak to all of the various principles, not only in this piece of legislation, or in the other ones that are before us in The Family Maintenance Act, or in Bill 41 relating to various Acts relating to marital property. I believe the most valuable discussion has taken place in Committee, where Committee has heard, over a period of approximately 45 hours, 50 delegations, and considered the bills clause-by-clause, and then improvements have taken place under those circumstances.

Mr. Speaker, we have reviewed all of the amendments proposed by members opposite to The Marital Property Act, to The Family Maintenance Act, and to The Dower Act. I wish to indicate that we will not be accepting any of them, Mr. Speaker.

**QUESTION put on the amendment, MOTION lost (On division.)**

**MR. SPEAKER:** The Honourable Member for Transcona. —(Interjection)—

**MR. CHERNIACK:** Mr. Speaker, you may not have a copy of these but I have more amendments.

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

**MR. CHERNIACK:** Thank you. I move, seconded by the Honourable Member for Transcona, that subsection 13(2) of Bill 38 be amended by striking out the words "to any circumstances the court deems relevant including" in the sixth and seventh lines thereof and substituting therefor the words "to the following circumstances and no others."

**MR. SPEAKER:** Are u ready for the question? The Honourable Member for St. Johns.

**MOTION presented.**

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

**MR. CHERNIACK:** Thank you, Mr. Speaker. Now that the government has rejected the amendment I had earlier proposed, and we still have Section 13(2), I would like to comment that there were some very important amendments made which the Attorney-General agreed to, or indeed, after some discussion, sponsored, which improves Section 13(2) in that it deletes certain of the more general circumstances that were described in 13(2).\$

Mr. Speaker, we had some interesting debates. We had a lawyer, a competent lawyer, come to the Committee and say that when the section says that a judge may make a variation from the equal division, having regard to any circumstances the court deems relevant, including — and then a list of the items — this lawyer said that really meant only these items, because by his interpretation it excluded other matters. And we had another lawyer, whom I will accept as being equally competent, saying, "No, it means what it says, 'having regard to any circumstances the court deems relevant including,'" which means that even those sections, those subsections which the Attorney-General deleted in Committee, could still be brought back for consideration by the court, because it says "any circumstances." Since it is my belief — not only my belief that it should be so, but my impression that the Attorney-General or the government intended it to be so, that the circumstances listed in subsection (2) are these circumstances which a court should consider and not others, that I am proposing that the wording be made clear that the court shall consider these circumstances listed in 13(2) and no others, and that's the reason for my amendment.

**QUESTION put, MOTION lost (On division.)**

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

**MR. CHERNIACK:** Thank you, Mr. Speaker. I move that Section 13 of Bill 38 be amended by adding thereto, at the end thereof, the following subsection:

No Regard to Certain Conduct.

13(3) In exercising discretion granted under subsection (1) or (2), the court shall not have regard to any conduct of the spouses which does not relate directly to the financial circumstances of the spouses or either of them or to the value of the assets of the spouses or either of them.

**MOTION presented.**

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

**MR. CHERNIACK:** Mr. Speaker, it is my considered recollection that the wording is not exactly that used by the Attorney-General, but that he did state — and of course, we don't have Hansard to confirm it — that it was his intention that conduct in relation to the distribution of commercial assets should not be a factor, except insofar as it may relate to the financial circumstances of the spouses, nor would conduct be considered in connection with the value of the assets. In other words, that conduct of the spouses, be it as was suggested — some personal relationship — if they fought; if there was some matrimonial offence committed, that that would not be a matter for consideration by the courts in the division of assets, but the phrase "clearly inequitable" and setting out the circumstances would apply to financial circumstances.

I had the Legislative Counsel draft this subsection in the hope, and Mr. Speaker, I mean that sincerely, in the hope that the Attorney-General will find it possible to accept this, because as I say, I believe that this describes the position he took in Committee. If there's some variation in words, or nuance, I would be only happy to come to an agreement with him on the change, but I do think it is important that, as I stated earlier, that the court know the guidelines that are expected of the court in dealing with the discretion, and this is a very important guideline and one which would put to rest the concerns of many who might think that this would be another occasion where the, as they say, the washing of the dirty linen would become a big part of the court case and thus involve a great deal of unpleasantness for the people involved, for the couple involved and for their children.

**QUESTION put, MOTION lost (On division.)**

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

**MR. CHERNIACK:** I move that Section 27 of Bill 38 be struck out and the following section substituted therefor:

Commencement of Act.

27 This Act comes into force on the day it receives the Royal Assent.

**MOTION presented.**

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

**MR. CHERNIACK:** Mr. Speaker, in Committee we discussed the Section 27 and the fact that it provided that it would come into force on a day fixed by proclamation. I enquired from the Attorney-General what had to happen, what had to transpire that would justify delaying this law until it was proclaimed, because it was explained under The Maintenance Act that it was necessary to ensure that the courts had the rules in place and their procedures set so that they could handle those matters. Mr. Speaker, in this case it is agreed that the law will be the law and it will become the law, it will receive Royal Assent within the matter of an hour or so.

Now Mr. Speaker, there is nothing that the Attorney-General could point out that should in any way delay this Act coming into force, nothing whatsoever, and frankly, I don't know why we shouldn't be able to say, when we leave this Chamber today for the last time, "This is now the law and it is in force." There's really no reason why it should have to await the drawing of an Order-in-Council and a meeting of the Cabinet when it has time to deal with it and to bring it in. Nothing that I have heard justifies a postponement.

That being the case, Mr. Speaker, I have to raise the question, why does one put in legislation that postpones its effectiveness for the decision of Cabinet. Does the Cabinet have any doubts about it? The law is being passed. I have no doubt that it's going to be proclaimed. Why not make it

the law as of today, the 21st day of July, 1978? Why wait longer? And since the Attorney-General could not give us any reason, really all he did, and I put this on the record, all he did was say, "I will be bringing it in as soon as possible," and he said not later than October 1st, but there's no real reason for delay, even longer than the next Cabinet meeting. So, I appeal to the Attorney-General, why not at least let me succeed with one amendment that I've brought in on Bill 38, by agreeing that we can walk out of the Chamber today, and those people present to whom the Attorney-General referred, who have been waiting for a long time to see a law that has some measure of equity in their minds — not as much as they want — let them know when they walk out of the building today that at least The Marital Property Act has not only received Royal Assent but has also come into force before they left the building.

**QUESTION put, MOTION lost (On division.)**

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

**MR. PARASIUK:** Mr. Speaker, I move, seconded by the Member for St. Johns,

That Clause 1(b) of Bill 38 be amended by striking out the words "pension scheme or plan, superannuation scheme or plan" in the third line thereof, and

That sub-clause 1(d)(ii) of Bill 38 be amended by adding thereto, at the end thereof, the words "and any rights under a pension scheme or plan or superannuation scheme or plan."

**MOTION presented.**

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

**MR. PARASIUK:** Mr. Speaker, I too would like to add my comments to begin with on the general process that took place in Committee. I had had an opportunity to sit through Committee last fall, and frankly, it was more of a depressing experience, because a very good piece of legislation was being somewhat arbitrarily suspended. What I witnessed and experienced over the last few weeks was a bit constructive in terms of the effort put forward by those 50 groups that came forward. By and large the submissions were excellent. I've had an opportunity in other walks of life to see and experience the quality of good, bad and indifferent types of analytical work, and the analytical work put into the briefs that we heard was really of a very, very high quality, and I think shows that a number of people, men and women, have come to understand what the issues are with respect to greater equality for women. And this particular bill is substantive and symbolic in that respect.

I wanted to pass a tiny compliment on to the Chairman who I think had a difficult task. The committee meetings were long, they were arduous, they were very detailed and I think he handled himself very well throughout. —(Interjection)— I said it was a tiny compliment.

The Minister, I think, conscientiously sat through the process and I think, personally tried to look at the briefs with an open mind. Indeed, the amendments that I am putting forward and the other ones that I will raise later are amendments that quite easily could have been put forward by the Attorney-General. Indeed I think that if he had his druthers he would be putting them forward. I got the impression in the committee meeting that he did believe. —(Interjection)— I said druthers and I think that the Member for Roblin possibly can understand that term but possibly he can't. There might be a dictionary outside.

I think that deep down the Attorney-General really does believe that the amendments that I am putting forward are indeed just. What we are talking about is taking pension schemes out of the category of commercial assets and putting them into the category of family assets. And you know I turn and look at the category that the Attorney-General himself has put forward and he says a family asset means an asset owned by two spouses, or either of them, and used for shelter or transportation, or for household — and by household I assume we mean food and sort of operational expenses of the house — educational, recreational, social or aesthetic purposes. I look at that and I wonder what about retirement. Isn't it a normal thing for a family to try and establish some security for itself in old age? What about retirement? And it struck me that that could have been a very simple thing to do, because really a genuine family — and I think what we are talking about in this Act are two things. We're talking about what should take place in the unfortunate breakdown of a marriage, but we're also talking about what we believe should exist in a marriage. And that's the important thing and I think that that's the symbolic aspect of this legislation. What should exist in a marriage? Shouldn't a family and doesn't a family plan for its retirement? Isn't a pension plan a family asset? And you know the way people are paid for their endeavours in life often only one spouse will be earning a pension. One spouse is earning income. That spouse gets a pension, but that's a pension for the family because the other spouse often and usually is at home not earning

income, not establishing or contributing to a jointly funded pension, but the other spouse's efforts at home count just as much. So that it's the income earner who isn't developing the pension for himself or herself, as the case might be, but the income earner is developing the pension for the family in retirement.

And that's why we put this motion forward in committee, and the Attorney-General looked at it. He said he would consider it. He would take it up with his caucus. If his caucus wouldn't buy it, it would be up to us to put it forward. I'm putting it forward because I think it's rather unfortunate that the Conservative caucus wouldn't back the Attorney-General up in this regard. I think he tried valiantly. I thank him for that. But I think it is very unfortunate that the Conservative caucus would think so little of the concept of family that they would not think that it's a natural thing for the family to look seriously at its retirement.

I don't know whether in fact that is because they were stubbornly thinking that pensions should be the domain of the man, to be cashed in at will for an investment purpose but I don't think that's how people really look at pensions. Most people anyway, but perhaps some people in the Conservative caucus look at it that way. So that's the only reason that I can think of why the Conservative caucus would not back up the Attorney-General in transferring pension plans from commercial assets to family assets. And I think it's a tragedy; I think it reflects very badly on their attitude towards marriage. I mean, they can be as motherhoodish as possible in their preamble but when you get right down to the nitty-gritty, and this is a very simple case where they could put their money where their mouth is, they haven't done it.

There fore, Mr. Speaker, I put it forward again here, so that we can see whether in fact they have reconsidered their past decision not to support the Attorney-General in this respect and maybe, in fact, they feel that indeed, as we do, a pension scheme should be part of the family assets.

**QUESTION put on the amendment, MOTION lost. (On division)**

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

**MR. PARASIUK:** Mr. Speaker, to save a wee bit of time, I will introduce the next two motions together as well because I think the principle is the same.

I move, seconded by the Member for Selkirk, that Clause 13(2)(g) of Bill 38, as printed, be struck out and the following clause substituted therefor:(g) the fact that assets are of a nature that there is no likelihood of valuing them on the basis set out in subsection 14(2) because there is no open market or no market for assets of that nature;

And that subsection 14(2) of Bill 38 be amended by adding thereto, at the end thereof, the words "except where there is no market for assets of a similar nature, in which case the value shall be determined on the basis of the damages that would be awarded to the spouse who is the owner of the asset in a court of competent jurisdiction if he had been wrongly deprived of the asset by another".

**MOTION presented.**

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

**MR. PARASIUK:** Thank you, Mr. Speaker. Quite simply, 13(2) is the section that provides for judicial discretion with respect to the division of commercial assets. And although the Attorney-General has tried vainly to argue that this whole question of judicial discretion with respect to commercial assets is a non-philosophical technical matter that really the judicial discretion with respect to family assets is the same as the judicial discretion with respect to commercial assets.

The presentations of various people to the committee have proved that that attempt on the part of the Attorney-General was wrong. It was ill-conceived, it wouldn't work because indeed there is a great difference in the judicial discretion that will be used in dividing commercial assets and that which will be used in dividing family assets. And I think that was clearly put by the legal experts who came before us and I think the reason why the Conservative caucus again wouldn't back the Attorney-General, because I think it was his intent to try and limit the discretion for both categories, was that as the Member for Fort Garry put it, there is this Conservative philosophical wariness of the state supposedly interfering in a marriage. And as I said, I think maybe they had a different conception of this legislation than we do. I think that this legislation establishes what people think of as constituting a marriage, and that is that marriage is an equal partnership.

And so what we try and do in this amendment, Mr. Speaker, is we're trying to really make the Attorney-General live up to his words, even though his Conservative caucus isn't backing him. We're trying to make him live up to his words of trying to limit the judicial discretion with respect to commercial assets.

13(2) provides a limitation but the old section (g) or the existing section (g) that I would like to change just states that the judges shall take into account the nature of the assets. And we started asking the Attorney-General what does that little statement mean, and I don't think the Attorney-General was sure of what it meant because he couldn't give us particularly good examples. We asked the Legislative Counsel what it meant and I think he provided a fairly good example when he indicated that this could be a pension plan; one that was contributed to before marriage and added to in marriage and will not be paid out in, say, 20 or 25 years but if their marriage breaks up what do you do with that particular pension scheme?

That struck me as being a fairly good example. It defined that there can be assets that may be difficult to appraise. So we then asked the Attorney-General does this statement "the nature of the assets" mean that you are talking about the appraisability of the assets? Is that what you mean by "nature of the assets"? Because it is somewhat more limiting and I think it provides clear direction to the judges, and that's surely what we're trying to do in this legislation is provide clear direction to the judges. And the Attorney-General said, yes, he would take this under consideration, which to me indicated that I think he was in favour of it. He took it to his caucus and his caucus undoubtedly said "no way," because this is the key opening in 13(2). 13(2), the nature of the assets, allows any lawyer the opening that they need to come forward and argue any case with respect to assets. It is an open door and we are trying to close that door and I think the Attorney-General, deep down, would have wanted to close the door as well.

So that's why I am putting forward these two related amendments with respect to limiting the definition of what the judges will look at when they look at the nature of the assets, and that is they would look at the difficulty in appraising assets when there is no open market. It's a simple, straightforward, somewhat technical amendment, but very critical. One that I know that the Attorney-General believes in and knows is right, deep down, but cannot get the backing of his caucus. Again, I hope that that caucus has had an opportunity to reconsider their arbitrary stubbornness in this respect and I invite them to join with us in approving these amendments.

**QUESTION put on the amendment, MOTION lost (On Division).**

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

**MR. PAWLEY:** Mr. Speaker, I beg to move, seconded by the Honourable Member for St. Johns, that clause 1(e) of Bill 38 be amended by adding thereto, at the end thereof, the words "but, in the case of property not located in a city, town or village, the property shall include an area not less than the minimum required under The Planning Act and municipal by-laws to permit the sale of the marital home as a separate parcel".

**MOTION presented.**

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

**MR. PAWLEY:** Mr. Speaker, I, too, would like to add a few words to those that have already been conveyed to the House in connection with impressions of the process which has taken place in respect to the development of this legislation.

First, I would also like to commend the groups that participated by submitting to us the accumulation of their research and study. Some 50 groups appeared before the committee and I believe that each and every one of the briefs contained information which was useful to all members. Of course, this was the end of a road, a road which we have travelled for some three and one-half years . . .

**A MEMBER:** It's not the end.

**MR. PAWLEY:** . . . and my colleague says, "Not the end." It's true, we may have reached the corner of the road but it will carry on for some years yet. But, Mr. Speaker, many other groups during that three and one-half year period also participated in the development of legislation.

Mr. Speaker, I would like to commend the Chairman who acted fairly throughout in the proceedings, the Attorney-General who, I believe, dealt with this legislation sincerely and attempted at all times to improve the legislation in a non-partisan fashion and also other committee members. Mr. Speaker, I do have to say that I am disappointed, not disappointed because the legislation before us is certainly not among the ranks of the least progressive in Canada. I think it has been improved and improved as a result of that process that I referred to. But, Mr. Speaker, I'm disappointed because it is not legislation which contains those principles that the groups that I referred to worked so hard to develop. The principles have been diminished, they had been weakened. Mr. Speaker,

in addition the legislation which we are now dealing with is not as good as the legislation passed last year. For that reason, Mr. Speaker, I am disappointed.

This particular amendment before us is one that I had thought that the Attorney-General would accept and I was sure that he would, because there are difficulties, considerable difficulties in respect to the present wording of the section. Marital home is — and first, I would like to make clear, Mr. Speaker, that this amendment is a very very minimum — in my view, marital home should be the 320 acres consistent with the definition of homestead in The Dower Act, and I do not understand why that traditional definition that has been with us for so many years should be tampered with insofar as this legislation is concerned. Mr. Speaker, my concern in respect to the particular definition provided is that marital property is only property that may reasonably be regarded as necessary to the use and enjoyment of the residents.

Mr. Speaker, in rural areas, under the provisions of The Planning Act, no split can take place in respect to title holding which is less than 80 acres without the approval of the appropriate planning authority, that being either the Provincial Planning Department, or the municipality in which the property is contained. Mr. Speaker, it is my experience that sometimes approval was granted; in other instances, particularly in the municipalities in the area surrounding the City of Winnipeg, refusal is often the rule. Mr. Speaker, if refusal then is the case, and those that submitted briefs from rural points acknowledge that this was the case, then or course, Mr. Speaker, the particular property cannot be transferred out by law. There will be no way that a title can be obtained, title cannot be vested. And as well, Mr. Speaker, if title cannot be vested, I suppose it could be argued, well, let the court attach a value, a value to the property in question. The Legislative Counsel advised us quite correctly in Committee that it was impossible to attach a value to property which cannot be sold, and Mr. Speaker, insofar as the valuation of assets in the legislation, it clearly indicates that it is an asset that the value that might reasonably be expected to be realized if sold in the open market by a willing seller to a willing buyer. Well, Mr. Speaker, if you can't sell because of the law, then there is no value that can be attached to that asset.

Only this afternoon, by coincidence, I received a call from a lawyer who asked me about this particular point and I mentioned it had been raised in Committee, and interestingly, that very point had been one which had been concerning him in his own practice in a town not too far from the City of Winnipeg.

So, Mr. Speaker, we're inviting trouble, and I don't know why we are inviting trouble. The problem is there, the difficulty is there, it is going to cause grief in the next year or two. We will have to return to this Assembly in order to make the appropriate amendments, and I had thought, Mr. Speaker, that the need for this amendment was so obvious and clear that we could have obtained consent to the amendment in Committee. We have failed to do so. This is one last effort to obtain a common-sense amendment to this legislation.

**QUESTION put on the amendment, MOTION lost.**

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

**MR. PAWLEY:** Mr. Speaker, I beg to move, seconded by the Honourable Member for Transcona, that Section 12 of Bill 38 be amended

(a) by adding thereto, immediately after the word "assets" in the first line thereof, the words "including their family assets;"

(b) by renumbering the section as subsection (3) thereof;

(c) by adding thereto, as subsections (1) and (2) thereof, the following subsections:

Instantaneous sharing of family assets.

12(1) The spouses to a marriage are the joint owners of all the family assets of the spouses.

Dispositions of family assets.

12(2) Where one of the spouses to a marriage disposes of a family asset or an interest therein without the other spouse consenting to or joining the disposition, the disposition is valid and effective if it is bona fide and for value but the spouse making the disposition is liable to the other spouse to account for the proceeds of the disposition and for damages for loss of the interest in the family asset.

**MR. SPEAKER:** You've heard the motion by the Honourable Member for Selkirk. Are you ready for the question?

The Honourable Member for Selkirk.

**MR. PAWLEY:** Mr. Speaker, it was last December that we were assured by the Attorney-General that the basic principles of the Family Law legislation which had been passed in June of 1977, would



be retained. One of the central principles of the legislation which was passed was that property, some property, would be shared equally during the marriage and the equal sharing of that property would not have to await the equal sharing at the termination of a marriage. Mr. Speaker, we don't, as mentioned earlier, we don't have equal sharing at termination of marriage because of the broader discretion. There is no assurance of that and, Mr. Speaker, we have totally, in this legislation, ripped out those provisions which dealt with equal sharing of family assets during the marriage. It's not just a psychological or paper right, the immediate sharing of family assets. Immediate sharing of family assets gives to both spouses a sense of economic independence within the family unit. One spouse is not dependent to the other spouse insofar as those assets that are concerned that are jointly used for purposes of shelter, purposes of recreation, purposes of joint use and enjoyment.

Mr. Speaker, it was my view that last June this was one of the most important thrusts forward in family law legislation. True, it was legislation that was in the forefront of all other provinces in Canada because no other province had seen fit to attest this particular provision, however, it is true that in many other jurisdictions in Western Europe and in the United States, community of property is a legal concept that is accepted. We were at least taking the first few gentle steps in that direction by providing for the community property ownership of family assets, the immediate vesting and equal sharing of family assets.

Mr. Speaker, the public which appeared before us in the vast majority supported this concept and expressed disappointment that family assets were not being immediately shared. This is probably one of the areas that I am most disappointed in, that we have seen fit to pull back and the excuse that is being used is one that no other province in Canada has seen fit to do this. A second excuse that is used is that some way or other creditors will suffer. Mr. Speaker, I have to say to you that this legislation is for families and for improved relationship, in legal relationship, husband and wife, it is not law which is geared toward the interests of the banks or the credit institutions. It is legislation for families and, Mr. Speaker, I have to say to you, therefore, that this amendment, if it were accepted by the government — and I know at this late hour it will not be — but if it was to be accepted by this government, would certainly assist in their proving that they were well intentioned when they expressed the view that they would retain the basic principles of the legislation passed last June of 1977.

**QUESTION put on the amendment, MOTION lost. (On Division)**

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

**MR. MERCIER:** Mr. Speaker, I move, seconded by the Minister . . .

**MR. SPEAKER:** Order please. Before we go into third . . .

**QUESTION put on concurrence and carried. (On Division)**

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

**MR. MERCIER** presented Bill No. 38, The Marital Property Act, for third reading.

**MOTION presented and carried.**

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

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

**MR. SPEAKER:** Order please. The motion before the House of the Attorney-General, third reading on Bill No. 38.

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

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

**NAYS:** *Messrs. Adam, Axworthy, Barrow, Boyce, Cherniack, Cowan, Desjardins, Doern,*

Fox, Green, Hanuschak, Jenkins, McBryde, Malinowski, Parasiuk, Pawley, Schreyer, Uskiw.

**MR. CLERK:** Yeas 28, Nays 18.

**MR. SPEAKER:** I declare the motion carried.  
Report Stage on Bill No. 39; amendment.  
The Honourable Member for St. Johns.

**MR. CHERNIACK:** Mr. Speaker, —(Interjection)— The member opposite just woke up? Full of life.

Mr. Speaker, I move that subsection 5(1) of Bill 39 be amended by striking out the words "all the circumstances of the spouses including the following" in the 4th and 5th lines thereof and substituting therefor the words "the following circumstances of the spouses and no others."

**MOTION presented.**

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

**MR. CHERNIACK:** Mr. Speaker, under the previous bill I had indicated that there seemed to be some difference of opinion as to just what the meaning was to the phrase "that the courts shall consider all the circumstances of the spouses, including the following." There was legal opinion given that this meant really that the court would only consider the circumstances set out and there was opinion given that the court can consider all other circumstances of the spouses including these ten items.

I am proposing that we make it clear, and I think the intention is clear, and that if that isn't the intention, then I think it only fair that we know what the intention is, but my impression is that the intention was that the court would be limited to reviewing these circumstances.

Now, Mr. Speaker, I must admit it's a little frustrating when you move amendments and there is no answer given, no explanation for a difference of opinion and the amendments are voted down. Although it is frustrating, it doesn't mean it is unexpected. So, Mr. Speaker, it should be helpful to know whether the government intends, in this particular case, that all the circumstances may be considered from the length and breadth of every conceivable opinion of the court, or whether the ten items listed are the ones that are meant to be considered. This amendment proposes to clarify and that it should be these ten items that are to be considered and no others.

**QUESTION put on the amendment, MOTION lost. (On Division)**

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

**MR. CHERNIACK:** I move that subsection 5(1) of Bill 39 be amended by adding thereto, immediately before the word "circumstances" in the 4th line thereof, "the financial."

Mr. Speaker, I sometimes think that the people who vote loudest are the ones who understand least about the matter that is being discussed. —(Interjection)— Mr. Speaker, I've given up hope for the First Minister ever rising to the level of the maturity of what is expected of a First Minister, but fortunately the session is just about over and the First Minister who should sit down, because he doesn't have the floor, is still talking at great length. It so happens, Mr. Speaker, that every time I rise that he's in the room, and fortunately he's not in the room that often, that he seems to feel it essential to somehow try to get a rise out of me and I have to congratulate him — in the past tense, when he used to get a rise out of me — but now I've become immune to him and inure to his insults and his arrogant behaviour. So, although I've learned to accept it, Mr. Speaker, I nevertheless have to know that he is there babbling away from his seat as has become his custom. —(Interjection)— You see, the insults that he can dish out are the ones that he does best from a distance.

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

**MR. CHERNIACK:** Thank you, Mr. Speaker. Mr. Speaker, it so happens that when I commented about the people who speak loudest when they vote no are the one who know least, I'm convinced, as the First Minister must be, that his voice was the one that was most prevalent in the last vote.

**MR. LYON:** It's getting to you, anyway.

**MR. CHERNIACK:** Mr. Speaker, the proposal in this amendment now that the last one was rejected is again the exact words of the Attorney-General. I am quite satisfied that that is exactly what he said. When we discussed what kinds of circumstances would be considered and when we discussed the fact that the circumstances such as personal relationships had nothing whatsoever to do in deciding whether or not to make an Order of Maintenance, the Attorney-General said that it was the intention that the financial circumstances would be what was reviewed by the court. Mr. Speaker, I am taking the example of the Attorney-General, the words used by him, and suggesting they be inserted so that it be clear that what he said he intended is what we are saying in this bill, and that is that the financial circumstances should be considered by the court.

**QUESTION put on the amendment, MOTION lost. (On Division)**  
**The Honourable Member for St. Johns.**

**MR. CHERNIACK:** I move that Section 8 of Bill 39 be amended by striking out Clause 8(1)(b) and by adding thereto, immediately after subsection (1) thereof, the following subsection:

Order for Separation. 8(1.1) Where one of the spouses to a marriage makes an application therefor under this Part, a court shall make an order that the spouses be no longer bound to cohabit with one another.

**MOTION presented.**

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

**MR. CHERNIACK:** Mr. Speaker, the intent of this amendment is to provide that where a court may feel that there is no need to make an Order dealing with maintenance or custody or any of the various factors, there should still be the opportunity for a spouse to ask for an order that they be no longer bound to cohabit with one another, and thus that there is a clear separation even though there may not be any other features to the Order, and that is the intention proposed here, that is that the court shall make an Order when it is applied for so that the couples know that the Order provides that spouses be no longer bound to cohabit with one another.

**QUESTION put on the amendment, MOTION lost. (On Division)**

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

**MR. PARASIUK:** Thank you, Mr. Speaker. I move, seconded by the Member for The Pas that subsection 25(1) of Bill 39 be amended by striking out the word "may" in the 1st line thereof, and substituting therefor the words "shall, except where it would cause undue hardship."

**MOTION presented.**

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

**MR. PARASIUK:** Mr. Speaker, as you know, I've tried to tighten up this legislation with respect to enforcement of maintenance. My colleague, the Member for Logan, had criticized the past legislation and he criticizes this present legislation because it doesn't deal sufficiently with the matter of maintenance, the enforcement of maintenance.

I know that the Member for Fort Garry, in the last House, and the present Member for Fort Garry, the same person, who is now the Minister of Health and Social Development, also criticized the last legislation, and has criticized this legislation for not dealing sufficiently with the problem of enforcement of maintenance. I brought in a motion for the Crown to pay and collect maintenance but this has been ruled out of order because it entailed expenditures by the Treasury. Now it wouldn't have been ruled out of order had the Minister brought it in because the Minister could have brought it in quite easily. But he decided not to and I find it very strange that he wasn't urged to do so by the Minister responsible for Health and Social Development. I would have thought that, you know, when you do get elected as government that when you get into Cabinet you will fight for the same things that you fought for when you were in Opposition. I've not heard an explanation why they haven't tried to do something over eight months, to try to deal with this matter of enforcement of maintenance because really nothing has been done in the ensuing eight months.

I know that my colleague, the Member for Selkirk, when he was Attorney-General was in the stage of, right in the process of establishing a group to look at this whole matter. He was going to have public hearings; he was going to look into this matter and try to deal with this problem

as best it can be dealt with, because it is a difficult problem. But nothing has been done over the last eight months of this government. They got in and they quickly, as a top priority, cancelled the progressive legislation that existed with respect to family law. That was their first priority. One would have thought that their first priority would have been to tighten up maintenance, but it's not what we find now, eight months later, it's not a priority at all. So I can't do much about that because the real effective way of trying to deal with the problem of maintenance is for the government to take action. It chooses, instead, to be inactive.

So I am proposing this small amendment. It substitutes the word "shall" for "may". It's the last resort that I have. It's a crumb, but it's still a step in the right direction and I would like to hear some rationale from the Minister of Health and Social Development, who really should be quite concerned with this matter because, frankly, if there isn't proper enforcement of maintenance it's his department that ends up paying the costs. And I would have thought that instead of doling out welfare, which is a drain on the Treasury, that the Conservative philosophic position would be to try and ensure that instead of 75 percent of the maintenance orders not being enforced, which is a tremendous drain on the Treasury because people then usually go on welfare, that the Conservative Government would try to improve that to say only 40 percent of the maintenance orders not being enforced. That would probably be an improvement to our Treasury of something in the order of \$10 million.

So I am surprised that nothing is being done. I think the government certainly has a lot to do in this respect and I invite them now to take one little step in the right direction with respect to tighter enforcement of maintenance.

**MR. SPEAKER:** Are you ready for the question? The Honourable Minister of Health.

**HON. L.R. (Bud) SHERMAN (Fort Garry):** Mr. Speaker, I want to assure the Honourable Member for Transcona and members of the House that my rationale, which the Honourable Member for Transcona has requested and to which he is entitled, as are members opposite and members of the House generally, is that I am working on it, Mr. Speaker, with my colleague, the Honourable the Attorney-General. I remain as committed to that objective this year as I was in the past and I will assure the Honourable Member for Transcona and his colleagues, as an undertaking, that my colleague, the Attorney-General, and I will be working on it very hard over the course of the next several months in the immediate sessions ahead facing this Legislature.

**QUESTION put, MOTION defeated. (On division)**

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

**MR. PAWLEY:** Mr. Speaker, I beg to move, seconded by the Honourable Member for St. Johns, that subsection 2(2) of Bill 39, as reported from the Standing Committee on Statutory Regulations and Orders be amended by adding thereto immediately after the word "but" in the sixth line thereof, the words "except where the dependent spouse has custody of a child of the marriage".

**MR. SPEAKER:** You have heard the motion by the Honourable Member for Selkirk. Are you ready for the question? The Honourable Member for Selkirk.

**MR. PAWLEY:** Mr. Speaker, I believe this to be one of the most contentious areas in the The Family Maintenance Act. Certainly it was contentious by reason of the volume of concern that was expressed, I think properly, by the various groups that appeared before the Committee.

Mr. Speaker, the Attorney-General had indicated earlier that in rejecting the recommendations of the Law Reform Commission in respect to equal sharing but in accepting the approach of the Law Reform Commission in accepting a degree of conduct insofar as development of guidelines for dealing with maintenance payments, that the response was unanimous to exclude conduct in determining an order for maintenance, that the same would be simply unjust.

Well, Mr. Speaker, certainly the members of the public that appeared before us overwhelmingly were concerned about the clause 2(2) which the Attorney-General had included within his legislation. Interestingly, Mr. Speaker, that clause had support from no quarter. Even the Manitoba Bar Association said to us that that clause would be very, very difficult to interpret and they foresaw grave difficulties if that clause, as worded, was permitted to continue in the existing legislation. Other groups, various groups, expressed dismay over the fact that we were stepping backward insofar as this particular area.

It is a fact that the legislation of last year based maintenance payments principally on the aspect of ability serving need — the ability to pay serving the need of the spouse. The legislation of last year, Mr. Speaker, I am satisfied, would have eliminated a great deal of expensive litigation. It would

have eliminated delay. It would have eliminated much of the bitterness between spouses and would have, I think, Mr. Speaker, and I think this is quite interesting, decreased the possibility of hostility by children toward parents. And it is interesting that the Attorney-General in his earlier statements had indicated that he was inserting a degree of fault prior to separation in his legislation because he felt that it was important that children ought to see a responsibility on the part of their parents.

Mr. Speaker, the fact is — and here we are limiting the question of conduct prior to separation to only those instances in which there are dependent children. And the Attorney-General expressed sympathy in committee for the position that we had taken in this respect and had indicated that he would take this position from committee and discuss it and return to committee. I had a feeling, Mr. Speaker, that the Attorney-General sympathized with the position that we had taken. Why, for instance, should children be the victims of the washing of dirty linen within the court process to find, as a result of that, that the spouse receiving custody of the child had his or her maintenance cut because of some finding of conduct which had taken place during the term of the marriage? Thus the child is the one to suffer, though in the custody of the parent found at fault.

It didn't make sense to us, Mr. Speaker. I feel that it did not make sense to the Attorney-General. I know that the Attorney-General must have run into a brick wall in his caucus, because upon his return the following night he was unable to accept the amendment which we felt was imminently reasonable and which, interestingly, did not attract much argument from government members on the committee.

So, Mr. Speaker, if we want to continue, insofar as children are concerned, in the marital breakup issues involving maintenance and custody fault-finding rather than providing need to the spouse as a basic theme, then we can continue down that road. We can continue down that road with all the additional legal costs; with all the extra delay; with all the consumption of valuable court time; with all the bitterness that generates within children in setting child against parent and having to make a choice. For what purpose? For no purpose, Mr. Speaker. It doesn't serve the need of the spouse who has custody of the child.

So I would urge, even at this last moment, that members reconsider their position in respect to this amendment.

**QUESTION put, MOTION lost. (on division)**

**MR. SPEAKER:** On the report of the bill, shall the bill be concurred in? (Agreed) The Honourable Government House Leader.

**MR. JORGENSEN:** Mr. Speaker, I move, seconded by the Minister of Highways, that Bill No. 39, The Family Maintenance Act, be now read a third time and passed.

**MOTION presented.**

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

**MR. MERCIER:** Mr. Speaker, I want to state clearly for the record that this bill, the previous bill and the following bill have the clear and undivided support of myself, our caucus and our Cabinet.

**QUESTION put, MOTION carried. (On division)**

**MR. CHERNIACK:** The same division as the previous bill.

**BILL NO. 41 — AN ACT TO AMEND VARIOUS ACTS RELATING TO MARITAL PROPERTY**

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

**MR. PAWLEY:** Mr. Speaker, I beg to move, seconded by the Honourable Member for St. Boniface, that 41 — I wonder if I could ask if this could be dispensed with and taken as read. Everyone has copies of the amendment. (Agreed) No, I'm sorry, just the first motion is — there are two motions. I believe, Mr. Speaker, they're both of the same intent, so that both motions could be grouped together and by leave that they could be taken as read. (Agreed)

THAT Bill 41 be amended by adding thereto immediately after Section 3 thereof, the following section:

subsection 4(6) of Dower Act am.

3.1 Subsection 4(6) of The Dower Act, being chapter D100 of the Revised Statutes, is amended by striking out the words "life interest under this Act" in the eight and ninth lines thereof and substituting therefor the words and figures "an estate in fee simple under section 14".

Subsec. 14(1) rep. and sub.

3.2 Subsection 14(1) of The Dower Act is repealed and the following subsection is substituted therefor:

Wife to have homestead on death of husband.

14(1) Subject to section 4, upon the death of a married man whose wife survives him, the wife is entitled to an estate in fee simple in his homestead as fully and effectually, and to the same effect, and under the same conditions, as if he had left her the estate in fee simple by will and every disposition by will of a married man of any interest or estate in his homestead otherwise than to his wife is void and of no effect.

**MOTION:** THAT that Section 4 of Bill 41 be amended by striking out the word "and" at the end of clause (a) thereof, by adding thereto at the end of clause (b) thereof, the word "and", and by adding thereto, at the end thereof, the following clause:

(a) by striking out the words "life estate" in the second last line thereof and substituting therefor the words "estate in fee simple".

THAT Bill 41 be amended by adding thereto, immediately after Section 6 thereof, the following section:

Form C of Schedule am.

6.1 Form C of the Schedule to The Dower Act is amended by striking out the words "life estate" where they appear in the second line of the body thereof and again in the fifth line of the body thereof and substituting therefor, in each case, the words "estate in fee simple".

Mr. Speaker, we had considerable discussion in respect to this particular matter in committee. Presently if a spouse has property in his or her name alone, that property is subject to the provisions of The Dower Act and then in the event of death the spouse, that is the non-owning spouse has a life interest only in that property — may have a life interest only until time of death and a remainder would fall upon the child or whoever else was determined by will — the estate, in other words, would have remainder interest.

Mr. Speaker, it is our view that this ought not to be the case with the home, that the home should be considered as joint. Certainly, it's consistent with the principle, even, expressed in the marital property bill which we just dealt with that there would be equal division of the marital home as part of the family asset.

So that, Mr. Speaker, we feel insofar as The Dower Act is concerned, that The Dower Act should ensure in the event of death that the title would be considered as fee simple, as though the title was joint. So that upon the death of one of the spouses, the spouse whose name was on the title, the remaining spouse would receive the title by way of survivorship in the same way as though the title was jointly owned to begin with, the surviving spouse would end up with the title in his or her name.

We feel that this is a just, a reasonable suggestion. I think the present provisions of The Dower Act, insofar as life interests and remainder interests, is not really satisfactory insofar as the home is concerned. I think there is the right of survivorship, which should consider the home as joint with that final interest resting in the remaining spouse, without that property being tied up over a period of 8 time, so I would place this amendment to the House hopefully for the House's support.

**QUESTION put on the amendment, MOTION lost. (On Division).**

**MR. SPEAKER:** Report on bill — shall the bill be now concurred in?

**QUESTION put on concurrence and carried.**

**BILL NO. 41** was read a third time and passed.

### ROYAL ASSENT

**MR. SPEAKER:** We shall now have Royal Assent by 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.*

**MR. SPEAKER:** May it please Your Honour, The Legislative Assembly, at its present Session passed

several bills which in the name of the Assely I present to Your Honour, and to which Bills I respectfully request Your Honour's Assent.

- No. 2 — An Act to amend The Distress Act.
- No. 3 — An Act to amend The Provincial Judges Act.
- No. 4 — An Act to amend The Highway Traffic Act.
- No. 8 — An Act to amend The Portage la Prairie Charter.
- No. 9 — An Act to amend The Mortgage Brokers and Mortgage Dealers Act.
- No. 10 — An Act Respecting the Royal Trust Company and Royal Trust Corporation of Canada.
- No. 11 — An Act to amend The Retail Businesses Holiday Closing Act.
- No. 12 — An Act Respecting The City of Brandon.
- No. 13 — An Act to amend An Act to Incorporate Co-operative Credit Society of Manitoba Limited.
- No. 14 — An Act to amend The Income Tax Act (Manitoba).
- No. 15 — An Act to amend The Homeowners Tax and Insulation Assistance Act.
- No. 16 — An Act to amend An Act to incorporate St. John's-Ravenscourt School.
- No. 17 — An Act to amend An Act to Incorporate the Brandon General Hospital.
- No. 19 — An Act to amend The Public Trustee Act.
- No. 20 — An Act to amend The Garage Keepers Act.
- No. 21 — An Act to amend The Real Property Act.
- No. 22 — An Act to amend The Jury Act.
- No. 23 — An Act to amend The Securities Act.
- No. 24 — An Act to amend The Real Estate Brokers Act.
- No. 25 — The Cattle Producers Association Act.
- No. 26 — The Statute Law Amendment (Taxation) Act (1978).
- No. 27 — An Act to amend The Clean Environment Act.
- No. 28 — An Act to amend The Payment of Wages Act.
- No. 29 — The Commodity Futures Act.
- No. 30 — An Act to amend The Civil Service Superannuation Act.
- No. 31 — An Act to amend The Personal Property Security Act. PORATED from certain Provisions of The Liquor Control Act.
- No. 35 — An Act to amend The Highway Traffic Act (2).
- No. 36 — An Act to amend The Highway Traffic Act (3).
- No. 37 — An Act to amend An Act to incorporate the Wawanesa and District Memorial Hospital Association.
- No. 38 — The Marital Property Act.
- No. 39 — The Family Maintenance Act.
- No. 40 — An Act to amend The Provincial Judges Act (2).
- No. 41 — An Act to amend Various Acts Relating to Marital Property.
- No. 42 — An Act to amend The Queen's Bench Act.
- No. 44 — An Act to amend The Corporations Act.
- No. 47 — An Act to amend The Law Society Act.
- No. 50 — An Act to amend The Tuberculosis Control Act.
- No. 52 — An Act to amend The City of Winnipeg Act.
- No. 53 — An Act to amend The Income Tax Act (Manitoba)(2).
- No. 54 — An Act to amend The Municipal Assessment Act and The City of Winnipeg Act.
- No. 56 — An Act to amend The Planning Act.
- No. 57 — An Act to amend The Public Schools Act.
- No. 58 — An Act to amend The Education Department Act.
- No. 60 — An Act to amend The Liquor Control Act (2).
- No. 62 — An Act to amend The Rent Stabilization Act.
- No. 63 — An Act to Grant Additional Powers to Thistle Curling Club Limited.
- No. 64 — An Act to amend The Legislative Assely Act.
- No. 65 — An Act to amend The Human Rights Act (2).
- No. 66 — An Act to amend The Teachers' Pensions Act.
- No. 67 — An Act to amend The Farm Lands Protection Act.
- No. 68 — An Act to amend The Real Property Act (2).
- No. 69 — An Act to amend The Civil Service Act.
- No. 70 — The Statute Law Amendment (Taxation) Act (1978)(2).
- No. 71 — The Statute Law Amendment Act (1978).

**MR. CLERK:** In Her Majesty's Name, the Honourable the Lieutenant-Governor doth assent to these Bills.

**MR. SPEAKER:** We, Her Majesty's Most dutiful and faithful subjects, the Legislative Assely of 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 these Bills:

No. 43 — An Act to Authorize the Expenditure of Moneys for Capital Purposes and Authorize the Borrowing of the Same.

No. 45 — An Act for Granting to Her Majesty Certain Sums of Money for the Fiscal Year Ending the 31st day of March, 1979, and to Authorize the Commitment of Additional Moneys for Expenditures in Subsequent Years and to Authorize the Borrowing of Funds to Offset the anticipated Operating Deficit.

No. 48 — An Act for Granting to Her Majesty Certain Further Sums of Money for the Public Service of the Province for the Fiscal Year Ending the 31st day of March, 1979.

No. 72 — An Act for Granting to Her Majesty Certain Further Sums of Money for the Public Service of the Province for the Fiscal Year Ending the 31st day of March, 1979(2).

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

**HON. FRANCIS L. JOBIN:** Mr. Speaker and Members of the Legislative Assely

The work of the Second Session of the Thirty-First Legislature has now been completed. I wish to commend the Members for their faithful attention to their duties including 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 Second Session of the Thirty-First 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, the happiness and the well-being of all our people.

Now just for a minute, for those of you who expect me to say something, and this is not in text, if it be taken by you all in good nature, and in a sense of facetiousness, with no offence meant and to send you home, I hope and trust, with a smile, may I observe, with all our labour pains that we have had, may observe of this period of four months, that all of you have been true-blue, that you have played it the safe way, that you nurse no grudges, that you have been very constructive, that it has been a very beefed-up session, and between now and the next time we meet, may I pray that we do not have to accept any wooden nickels and that you receive notification of the next session by post.

At the opening of this session, I did pray that unemployment would be solved and to an extent my prayers have been answered in that employment is no worse. And now at this time I pray not, but I beseech those engaged in the labour disputes in Manitoba, be they the unions or be they the management, that they bear in mind that these are not good things for the province, and I would ask both sides to give heed to what they are doing to our province. I would now, then, like to thank you Members that have served well. I would like to thank those people that have served you well, and I would like to thank the media. And may I suggest you go home now and cool it.

**MR. MERCIER:** It is the will and pleasure of His Honourable, 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 accordingly prorogued.

*God Save the Queen was sung.*