

THE LEGISLATIVE ASSEMBLY OF MANITOBA

2:30 o'clock, Tuesday, March 4, 1969

Opening Prayer by Mr. Speaker

MR. SPEAKER: Presenting Petitions
Reading and Receiving Petitions
Presenting Reports by Standing and Special Committees

MR. WILLIAM HOMER HAMILTON (Dufferin): Mr. Speaker, I beg to present the report of the Special Committee on the Sale and Use of Farm Machinery.

MR. CLERK: Your Special Committee on Sale and Use of Farm Machinery begs leave to present the following as their report.

Your Special Committee on Sale and Use of Farm Machinery appointed on the 25th day of May, 1968, at the Second Session of the Twenty-eighth Legislature, met on the 21st day of October, 1968, on the 18th and 19th days of November, 1968, on the 9th day of December, 1968, and on the 17th day of February, 1969.

Immediately after the prorogation of the Second Session of the Twenty-eighth Legislature, your Committee met and appointed Harry P. Shewman as Chairman.

Mr. Hamilton was elected Chairman to replace the late Harry P. Shewman.

Your Committee visited the Versatile Manufacturing Ltd.

Your Committee received presentations from the following Associations or interested parties with respect to artificial insemination.

1. Independent Breeders Association - Mr. Keeley
2. Manitoba Aberdeen Angus Association - Clayton Canning
3. Manitoba Stock Growers Association - Ross Mitchell
4. Herdbuilders Incorporated - Dr. K. Robson
5. Manitoba Pool Elevators
6. Manitoba Department of Agriculture - A. J. Church
7. Brandon Milk Producers Association - Keith Campbell
8. Herdbuilders Incorporated - Vern McFarlane
9. American Breeders' Service - Mr. Jim Clark
10. Dairy Cattle Breeders' Association - Mr. Ray Chandler
11. Ontario Association of Animal Breeders - Mr. Roy Snyder
12. Canada Department of Agriculture - Dr. J. Andrich
13. Manitoba Ayrshire Breeders' Association - Mr. G. Scheach
14. Manitoba Aberdeen Angus Association - Mr. Clayton Canning
15. Independent Breeders' Association - Mr. Vic Lund
16. Winnipeg District Milk Producers' Co-operative Ltd. - Mr. H. Holtmann
17. Herdbuilders' Technicians - Mr. Jerry Bowes
18. Hereford Association - Mr. Bob Kerr
19. Holstein Breeders' Association - Mr. L. Nicholson
20. Shorthorn Breeders' Association - Mr. C. S. Thomas
21. Mr. L. V. Robson - Private Brief
22. Manitoba Charolais Association - Mr. C. Geddes
23. Manitoba Beef Cattle and Performance Association - Mr. Donn Mitchell
24. Dr. K. Robson - Private Brief

Your Committee recommends that a knowledgeable individual be invited to make a study of artificial insemination in Manitoba and would be made privy to the information before this Committee.

Your Committee has not completed its work and is awaiting the final report of the Barber Commission and recommends that it be reconstituted with the same powers as set out in the resolution passed in the House on the 25th day of May, 1968.

All of which is respectfully submitted.

MR. HAMILTON: Mr. Speaker, I beg to move, seconded by the Honourable Member from Rock Lake, that the report of the Committee be received.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried.

HONOURABLE STERLING R. LYON, Q. C. (Attorney-General) (Fort Garry): Mr. Speaker, I beg to present the report of the Special Committee on Law Revision.

MR. SPEAKER: Order please. Would the honourable members please retain their seats while the Chair is being addressed.

MR. CLERK: Your Special Committee on Law Revision begs leave to present the following as their report.

Your Special Committee of the Legislature appointed on the 24th day of May, 1968 at the Second Session of the 28th Legislature for the purpose of examining and approving drafts of Statutes, consolidated or revised, met on the 5th of November, 1968 and appointed Honourable Mr. Lyon as Chairman, and the quorum was set at four members. The Committee also met on November 6th and November 25th.

The Committee examined 219 Statutes, which were approved. This left some Statutes still to be considered. The Revising Officer reported that the revision of a few of these was not completed. In other cases files were in the hands of persons preparing the indices.

Your Special Committee still has a few Statutes to review and it therefore recommends that it be reconstituted with the same personnel and the same terms and conditions under which it was originally established.

All of which is respectfully submitted.

MR. LYON: I move, seconded by the Hon. the Provincial Treasurer, that the report of the committee be received.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried.

MR. LYON: Mr. Speaker, I beg to present the report of the Standing Committee on Statutory Regulations and Orders with respect to Manitoba Regulations, and in presenting this report I may say that this report deals with regulations only and this is the report that will require a motion of concurrence at a later date. There will be a second report dealing with the other matters that were before the committee.

MR. CLERK: Your Standing Committee on Statutory Regulations and Orders with respect to Manitoba Regulations begs leave to present the following as their report.

Your Standing Committee on Statutory Regulations and Orders appointed on the 25th day of March, 1968 met on the 25th day of October, 1968 and on the 24th day of February, 1969 and considered the regulations tabled in the assembly at the last session, being Manitoba Regulations 121/67 to 145/67, both inclusive, and 1/68 to 25/68, both inclusive. Your Committee makes the following comments on, and recommendations with respect to, regulations considered by it.

1. Manitoba Regulation 14/67 prescribed forms of bills of lading. In the bills of lading there is reference to conditions on the back thereof. However, the conditions were not printed with the regulations. This appeared to be an oversight. These conditions have now been enacted by Manitoba Regulation 16/69, so that no further action is required.

2. Manitoba Regulation 63/67 sets out provisions respecting collective bargaining procedures between The Workmen's Compensation Board and staff. The regulation was made by The Workmen's Compensation Board. Under The Workmen's Compensation Act the board is given the authority to appoint employees to its staff, but the fixing of salaries, superannuation, conditions, etc., are "subject to the approval of the Lieutenant-Governor-in-Council". Your Committee recommends that this regulation be repealed.

3. Manitoba Regulation 111/67. This regulation deals with bursaries made under the provisions of the old Department of Agriculture Act which was repealed prior to the making of the regulation. At the time the regulation was made there was no authority in The Department of Agriculture Act to make the regulation. Your Committee recommends that the regulation be repealed.

All of which is respectfully submitted.

MR. LYON: Mr. Speaker, I beg to move, seconded by the Honourable Provincial Treasurer that the report of the Standing Committee on Statutory Orders concerning regulations be received.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried.

MR. LYON: Mr. Speaker, I beg to present the report of the Standing Committee on Statutory Regulations and Orders. This report, because of its length, I would suggest that there is agreement in the House that it be printed in full in Hansard - it's a very voluminous report - if that would meet with the satisfaction of the members rather than have the Clerk read it at length at the present time. I would like to present this report.

MR. SPEAKER: Agreed?

MR. LYON: This report is not required to be concurred in.

Your Standing Committee on Statutory Regulations and Orders, appointed on the 25th of

(STANDING REPORT cont'd.) March, 1968, met on the 25th day of October, 1968, on the 24th day of February and the 25th day of February, 1969.

On the 25th day of October, 1968, Hon. Mr. McLean was appointed Chairman. Quorum was set at seven.

On February 24th, 1969 Hon. Mr. McLean resigned and Hon. Mr. Lyon was appointed Chairman.

Your Committee had before it the proposed Draft Expropriation Act that was referred to it and considered certain other recommendations for expropriation law, attached hereto as Schedule "A".

While your Committee was not unanimous in adopting all the recommendations and a number of proposals for variation in the recommendations and further recommendations were raised and discussed, your Committee recommends that a new Expropriation Act be introduced based largely on the proposed Draft Expropriation Act referred and varied to conform with the general recommendations, shown in Schedule "A".

Your Committee considered draft proposals for legislation to establish the office of a provincial Ombudsman as submitted to it by the Honourable J. B. Carroll, Minister of Consumer and Corporate Affairs and attached hereto as Schedule "B".

While your Committee was not unanimous in concurring with all the aforesaid proposals, and while other proposals were raised and discussed, your Committee recommends that legislation to establish a provincial Ombudsman be proceeded with at the next Session of the Legislature.

Professor A. E. Braid of the Faculty of Law, University of Manitoba addressed your Committee and explained the essential points dealt with in the proposed Draft Personal Property Security Act. While your Committee has not examined the proposed Draft in detail, your Committee recommends that legislation along the general lines of the Draft Act be brought forward when feasible.

Your Committee has considered the recommendations and comments on the briefs submitted on the Draft Consumers' Protection Act as prepared by Messrs. Harold Buchwald, Q. C., Reginald B. Cantlie and Gordon Snider, attached hereto as Schedule "C". Amendments to the proposals contained in Schedule "C" were discussed and in some cases agreed to.

Your Committee recommends that the Draft Act and amendments as reviewed form the basis of legislation to be brought forward as soon as feasible.

Your Committee heard comments from the Attorney-General on the matters of Legal Aid and Compensation to Victims of Crime. Your Committee recommends that the government continue its review of these matters with a view to enlarging these programmes as and when it becomes financially feasible so to do.

Schedule "A"

RECOMMENDATIONS RE PROPOSED EXPROPRIATION ACT

1. The Expropriation Act should govern all expropriations in Manitoba within the jurisdiction of the Legislature, including expropriations by the government and agencies of the government.
2. The Act should contain provisions relating to procedures for expropriation and the rules by which compensation is fixed.
3. The Act should provide for compensation being paid not only where land is taken but also for injurious affection where land is not taken where damage is done to the land by reason of construction, not the use, of the works by the expropriating authority.
4. The Act should require that before an expropriation notice or declaration is filed it be approved by a minister, an elected council or an elected board.
5. The expropriation should become effective on the filing of proper documents in the Land Titles Office and the date of filing should be the basic date for fixing compensation.
6. The expropriating authority should be required to give notice to all owners with registered interests as soon as possible and in any case not later than ninety days, or such further period as may be allowed by the court on ex parte application.
7. The expropriating authority should be required to make an offer to the owners with registered interests as soon as possible but not in any case later than ninety days after giving notice of expropriation to the owner.
8. Where the owner does not refuse to accept an offer within thirty days of receiving it, he should be deemed to have accepted it. However, if he refuses to accept the offer within thirty

(STANDING REPORT cont'd) days, the owner should be free to accept it at any time thereafter as long as it has not been withdrawn by the expropriating authority. The expropriating authority should be required to have an offer always open to the owner which can be accepted by him until the compensation is fixed by the court.

9. The owner should always have the right to demand payment up to a high percentage of the offer is so far as it relates to land and improvements at any time without prejudicing his right to continue negotiations or to go to arbitration to have the actual amount fixed.

10. The expropriating authority should have the right to obtain possession on reasonable notice and on payment of a hundred per cent of the compensation for land and improvements that they are willing to pay at that time, but not including compensation for injurious affection unless that amount has been agreed upon.

11. The owner should not be permitted to vacate expropriated premises without reasonable notice to the expropriating authority.

12. Compensation for taking of land should be based primarily on the market value at the date of the filing of the expropriation with further consideration for

- (a) damages attributable to disturbance,
- (b) damages for injurious affection, and
- (c) any special difficulties in relocation.

13. The market value should be described as the price that a willing buyer would be prepared to pay to purchase the land on the open market by a willing seller.

14. Where market value is based on a use of land other than existing use, and that value is higher than a market value based on the existing use plus compensation for disturbance of the existing use, no compensation should be paid for disturbance that would have been incurred by the owner in using the land for that other use.

15. The Act should provide for special rules similar to those contained in the Ontario Expropriations Act, 1968-69 including use respecting

- (a) cost of equivalent reinstatement in certain instances,
- (b) the method of determining injurious affection where part of land is taken,
- (c) certain matters which are not to be taken into consideration in determining market value, e. g. special use to expropriating authority, variation in value resulting from the works for which the expropriation is made, and increase in value because the land is being put to a use that could be restrained by a court,
- (d) separate valuation for separate interests, valuation of security interests,
- (e) Payment to security holders,
- (f) valuation of disturbance, damages, injurious affection and relocation,
- (g) valuation of tenants compensation,
- (h) the time at which business losses should be assessed,
- (i) valuation of loss of goodwill where business is not continued after expropriation,
- (j) compensation for improvements that did not enhance the market value of the land,
- (k) prepayment of mortgages.

16. There should be provision for a special compensation of five percent of compensation payable in respect of the market value of the land expropriated where the residence of an owner other than a tenant is expropriated.

17. There should be a limitation period for claiming compensation for injurious affection where no land is taken from the owner.

18. Where land that has suffered injurious affection also obtains an advantage from the work for which the land was taken, the injurious affection damages should be set off by the value of the advantage gained.

19. There should be provision for procedure for abandonment of expropriations in whole or in part and for compensating damages by reason thereof.

20. Where an expropriation has been commenced, the expropriating authority should not be able to enter into an agreement settling any compensation with respect thereto without the prior approval of the land value appraisal commission.

21. Interest should be required to be paid by the expropriating authority from the date of possession on any unpaid compensation at a rate established from time to time by the Lieutenant-Governor-in-Council.

22. Compensation, where not agreed upon, should be determined by the County Court of the district in which the land is situated. The court could make special rules respecting the

(STANDING REPORT cont'd) procedure under The County Courts Act.

23. Where an expropriation matter is settled by the courts, the expropriating authority should pay the costs of the owner where the owner gets more than a fixed percentage of the amount offered by the expropriating authority, and where the owner gets less than eighty-five per cent of the amount offered, the costs should be in the discretion of the court.
24. There should be a full right of appeal in all matters dealt with by the court.

Schedule "B"

THE OMBUDSMAN.

1. Use of the name "Ombudsman" to conform with the name given to the official in New Zealand, Alberta and New Brunswick rather than the title "Legislative Commissioner for Administration" used in the United Kingdom.
2. Appointment to office and revocation. The Ombudsman would hold office during good behaviour and shall cease to hold office upon attaining the age of 65 years. He would be appointed in the same way as the Comptroller-General and removable from office in the same way by resolution by 2/3 vote of the Legislative Assembly.
3. The Ombudsman would have generally jurisdiction to investigate all written complaints of any decision or recommendation made, including any recommendation made to a minister, or any act done or omitted relating to a matter of administration by any department or agency of the government or by any officer, employee or member thereof, whereby any person is or may be aggrieved.
4. The Ombudsman would take an oath of office before the Speaker or Clerk of the Legislative Assembly and the oath would include an undertaking not to divulge information received except as required to establish grounds for his conclusions, recommendations and reports.
5. Investigations by the Ombudsman would be conducted in private.
6. The Ombudsman would have the powers conferred on a Commission under Part V of The Manitoba Evidence Act.
7. The Ombudsman would not be authorized to investigate any matter with reference to which a complainant has a right of appeal or right of remedy by proceedings in a court of law, provided that he would be authorized to investigate such cases if satisfied under the circumstances, that it would have been unreasonable to expect the complainant to appeal to the courts. In such cases no investigation would be commenced until the appeal period had expired.
8. The Ombudsman would not be authorized to investigate any decision, recommendation, act or omission of any person acting as a solicitor for the Crown or as counsel for the Crown in respect of any claim or legal proceeding.
9. The Ombudsman would not make a recommendation or report in respect of any decision, act or omission by a department or agency of the government or its officials, that is a matter of discretion vested in the department or agency, unless the Ombudsman concluded that such discretionary action was clearly wrong or unreasonable.
10. The jurisdiction of the Ombudsman would not, of course, extend to judges or the function of any courts or to awards or decisions of an arbitrator under The Arbitration Act.
11. Provision will be made whereby statements made or answers or evidence given by any person in an investigation or proceeding before the Ombudsman would not be admissible in evidence in any court or related proceeding, except on the trial of a person for perjury and no person would be guilty of an offence under an act of the legislature by reason of the requirement to furnish evidence or information to the Ombudsman.
12. The Ombudsman would have authority to enter department of government premises and the premises of government agencies for the purpose of carrying on any investigation within his jurisdiction.
13. The Ombudsman would be authorized to make recommendations to government departments or agencies in respect of investigations within his jurisdiction so that corrective measures in areas of mal-administration could be taken.
14. Provision will be made that no proceeding of the Ombudsman, except on the grounds of lack or jurisdiction, shall be subject to challenge in the court.
15. Provision would be made that no proceeding would lie against the Ombudsman or persons employed under him in respect of the exercise of his office, unless he acted in bad faith.
16. The Ombudsman would be required to report annually to the Legislative Assembly on the exercise and performance of his functions and duties of office and would be as well authorized

(STANDING REPORT cont'd) to make other reports public as circumstances required. 17. It would be an offence to willfully obstruct or resist the Ombudsman in the exercise of his jurisdiction or to willfully fail to comply with the lawful requests of the Ombudsman. It will also be an offence willfully to make a false statement to the Ombudsman or to mislead him or his staff in the exercise or performance of his functions of office.

Schedule "C"

COMMENTS ON THE BRIEFS SUBMITTED ON THE DRAFT CONSUMERS' PROTECTION ACT TO THE STANDING COMMITTEE ON STATUTORY REGULATIONS AND ORDERS

Members of the Committee will recall that the Draft Consumers' Protection Act was tabled early in 1967 following the White Paper on the proposed Citizen's Remedies Code in December, 1966. The Draft Consumers' Protection Act sought to implement virtually all of the recommendations of the Report of the Special Committee on Consumer Credit, 1966, which was tabled in January of that year.

The Special Committee recommended that all specific consumer credit legislation be consolidated, with the result that the Draft Consumers' Protection Act presented an omnibus code of the law in this area.

In many respects the Manitoba Draft Act preceded much of the legislation that was to appear in other Provinces and by the Federal Government (with respect to The Bank Act). Now that there is considerable legislation in many comparable areas in a number of other jurisdictions, there has been the opportunity to compare, refine and improve the Draft Act in terms of experience elsewhere and in the interests of uniformity.

The fourteen written submissions and the accompanying verbal representations to the Committee at its Public Hearings have been thoughtful and enlightening. All of the recommendations have been collated and carefully considered, and we are in the debt of those who took the time and trouble to analyze the Draft Bill and appear before the Committee for the considerable assistance and guidance they have provided, based upon their own experience, research and interest in the subject matter.

A re-appraisal in depth of the Draft Consumers' Protection Act has been made, and we are proposing a number of recommendations which, while not altering the underlying principles, should considerably improve the workability of the Legislation from the perspectives of both Consumers and Credit Grantors. Perhaps the most significant drafting alteration is our recommendation that real property mortgages and the sale of land be removed from the Consumers' Protection Act as such, and the disclosure requirements for these instruments of Consumer Credit be introduced separately as amendments to The Mortgage Act. Their inclusion in the Draft Consumers' Protection Act creates considerable confusion and problems in draftsmanship, and, on reconsideration, the underlying principles can better be preserved through The Mortgage Act.

A direct consequence of removing real property mortgage transactions is that The Unconscionable Transactions Act remain and continue as a separate Statute, rather than being included in the Consumers' Protection Act because, of course, its application is much broader than simply consumer credit transaction (e. g. real property mortgages). Other existing legislation, such as, The Law of Property Act and The Bills of Sale Act should also be amended to embrace the consumer protection provisions in the Draft Act. These are commented upon more specifically in the recommendations which follow.

RECOMMENDATIONS AND COMMENTS ON THE BRIEFS SUBMITTED ON THE DRAFT CONSUMERS' PROTECTION ACT TO THE STANDING COMMITTEE ON STATUTORY REGULATIONS AND ORDERS

1. We recommend that all provisions regarding real property mortgages and the sale of land be removed from this Act.

The provisions regarding the sale of land are not of importance and can be dropped.

Those concerning real property mortgages can be put into The Mortgage Act which is a more logical place for them.

2. We recommend that The Unconscionable Transactions Act be left as a separate statute and not embodied in this Act; amongst other reasons for this, it applies to land transactions and to

(STANDING REPORT cont'd) non-consumer transactions.

3. As regards chattel mortgages, we recommend that there be inserted in The Bills of Sale Act a provision for relief against acceleration on default similar to that now contained in The Mortgage Act; in brief this would entitle the mortgagor to avoid foreclosure by paying up the arrears with interest and any costs incurred by the mortgagee. This provision in The Mortgage Act applies to all real property mortgages, and the suggested new provision would likewise apply to all chattel mortgages.

The provisions regarding chattel mortgages contained in the draft Act would remain in it, and, in addition, there should be inserted in it a statutory right to prepay in full at any time. These provisions, like others in this Act, should apply only to consumer transactions; how a consumer transaction should be defined is a matter discussed later.

4. We recommend that the remaining matters comprised in this draft Act should all be retained in it, and that there should be no further subdivisions of it into separate acts.

One reason for this conclusion is the licensing provisions in Part X; licences can be cancelled for breaches of the Act, and it is desirable that the statutory provisions which licence holders are required to observe should all be contained in the one Act and not spread over several.

5. We recommend that in Section 2 (1)(e) the words "or hiring" be added at the end of the Section.

6. Considerable criticism was directed at the definition of "cost of borrowing" in paragraph (g) of Section 2 (1). Our definition is very different from that used in other Provinces and, undoubtedly, this could give rise to inconvenience.

We recommend that there be substituted a definition similar to the definition of "credit charges" in the Alberta Credit and Loan Agreements Act, 1967, which definition is as follows:-

"credit charges means

- (i) when used in relation to a time sale agreement, the difference between
 - (A) the total amount that the buyer has to pay in the transaction (if the payments are made as they become due), and
 - (B) the sum of the regular cash selling price and the insurance charges, if any, actually paid by the credit grantor to an insurance company on behalf of the buyer on his request.
- (ii) when used in relation to a loan agreement, the difference between
 - (A) the total amount that the borrower has to pay in the transaction (if the payments are made as they become due), and
 - (B) the sum of the amount the borrower actually receives from the credit grantor and the insurance charges, if any, actually paid by the credit grantor to an insurance company on behalf of the borrower on his request, and
- (iii) when used in relation to a continuous deferred payment plan or a revolving loan agreement, the charges that the buyer or borrower is required to pay periodically on the unpaid balance from time to time for the privilege of purchasing or borrowing on the plan;" (Minor changes will be required in this definition, as it uses terms which are different from some used in this Act, e.g. "continuous deferred payment plan" instead of "variable credit").

It will be observed that this does not permit the making of a separate charge for insurance on a revolving credit account, except, of course, where the buyer himself purchases insurance and pays for it on this plan. This is inevitable, because the insurance charges with which we are concerned are those which are intended to insure the repayment of the debt. As the amount owing on a variable credit account is variable, it is impossible to calculate the insurance charge in advance and make a separate charge to the buyer for it.

However, as a result of this change, three points should be considered, viz:

- (a) If the lender insures the life of a borrower and the cost thereof is charged separately to the borrower, then if the borrower prepays his debt, he should be entitled either to an assignment of the policy or to a rebate of part of the premium. Under our previous definition, this premium would have been part of the cost of borrowing, and the borrower would have been entitled to a rebate of it on prepayment. Now that it is not part of the cost of borrowing, separate provision is required.
- (b) Where the lender makes a separate charge for insurance, he should be required to produce to the borrower some proof that the insurance has been placed.
- (c) The principal reason for including life insurance premiums in the cost of borrowing

(STANDING REPORT cont'd) was to discourage the charging by a lender of excessive premiums for such insurance. This is a problem that has arisen under the Federal Small Loans Act. This Act is, however, enforced by the Superintendent of Insurance who is able to keep a close eye on the rates of insurance premiums charged. This will not be possible under this Act without incurring considerable administrative expenses. If, therefore, it should become apparent that excessive premiums are being charged, amending legislation may be required.

7. We agree with Professor Ziegel's suggestion that the word "lender" should be changed to "credit grantor". The draft Act uses "lender" to mean anyone who extends credit; if "credit grantor" is used instead, "lender" can be used, where necessary, in its usual sense of a person who lends money.

8. It was suggested in at least one Brief that we ought not to exclude Banks from the definition of "money lender" in Section 2 (1)(o). We would point out that the only effect of this exclusion is to exempt the Banks from provincial control of their actual money lending operations; it in no way affects their position as assignees of lien notes, chattel mortgages or other obligations.

In our opinion, the actual money lending operations of Banks are so obviously a federal matter that any attempt by this Province to control it would be obviously ultra vires, and would just lead to a head-on collision between this Province and the Federal Government.

We would point out that the word "which" in this paragraph ought to be changed to "who".

9. The definition of "retail hire-purchase" in Section 2(1)(s) was criticized. The problem here is to exclude genuine leases of chattels which happen to contain an option to purchase, while at the same time including transactions which are really only camouflaged time sales.

We have found a useful suggestion in the American draft Uniform Consumer Credit Code. This defines "sale of goods" as including a "bailment or lease of goods which is intended as a means whereby the bailee or lessee will ultimately become the owner of the goods". This could usefully be adopted as a definition of "hire-purchase", except that an assignee will not necessarily know what the intention was. To protect assignees, the Act should state that, prima facie, a hiring agreement which contains an option to purchase exercisable only at the end of the hiring period, and cannot be determined by the hirer at any time on not more than two months' notice without penalty, is a hire-purchase, and any other hiring is not.

10. The exclusion of commercial transactions (i. e. sales of chattels which are to be used in the buyer's business) requires careful thought. There is not really any sound distinction between a small business man buying for use in his business and an individual buying for domestic use, and the Act endeavours to cover them both. This has been criticized, and it was suggested that we should specifically exclude commercial transactions. This, however, would raise other problems.

As is well known, credit sales are largely financed by the vendor assigning the contract to a finance company. The finance company must have a simple and reliable way of knowing whether any given contract is within the Act or not. This is impossible unless the distinction is one which is apparent on the face of the contract itself.

We, therefore, recommend that in this respect the Act remain as it stands, except that--

(a) All sales, hire-purchases or loans to corporations, partnerships or persons buying or borrowing under a registered business name be excluded, and not just those to corporations in which there is no individual guarantor, as is proposed in the existing draft.

(b) The exclusion of transactions over \$7,500.00 be removed from Sections 9 and 10 and put in the definition section.

We recommend that the last line of the definition of "sale" which is Section 2 (1)(u) be changed round, so as to read, "other property, real or personal;"

11. The definition of "variable credit" (Section 2 (1)(y) should be amended by adding at the end, the words, "but does not include any agreement or arrangement in which there is no cost of borrowing payable by the borrower". Without this, the definition might include straight charge accounts and credit cards, which is not intended.

A further minor change should be made in this paragraph; the words "or services" should be inserted after "goods" in line five.

12. Several comments were made in regard to Part I (Unconscionable Transactions). We have already recommended that this be left as a separate Act.

Apart from changes in terminology to make the terms used conform to the rest of the Act, only two real changes in the existing Act were made in the draft. Neither of these has

(STANDING REPORT cont'd) been the subject of criticism. There has, however, been criticism of existing provisions of the Act. The Act has been in force for three and a half years, and does not seem to have caused any trouble yet. However, two of the criticisms have substance and should be implemented:-

(a) This Act is based on the corresponding Act of Ontario. However, our Act applies where "the cost of borrowing is excessive or the transaction is harsh or unconscionable", whereas the Ontario Act says "and" instead of "or". The criticism is that our Act may be unconstitutional because the first alternative, by itself, infringes on the Interest Act.

We recommend that this be investigated, and our Act reworded if thought advisable. However, we should not adopt the Ontario wording; this requires that both our alternatives be satisfied, and in consequence their Act does not apply to a transaction which is harsh for some reason other than the cost of borrowing.

(b) The Act should be confined to transactions entered into within Manitoba; this is because an assignee is not protected unless an acknowledgment is made before a barrister or solicitor of this Province, and it is not practicable to do this outside the Province.

13. We recommend that the requirement that the annual rate of the cost of borrowing has to be stated in dollars and cents per hundred dollars as well as in a percentage be dropped.

What this requirement means is that if the rate is 12 1/2 percent, it would have to be shown both as 12 1/2 percent and \$12.50 per hundred dollars. The latter is an unusual way of stating a rate, and was included in the draft only because the Premier's Committee recommended it; this recommendation was itself based on submissions made to it on behalf of the credit industry who are now the people who are attacking it. We consider that their second thoughts are right, and that this unusual method of stating a rate could easily cause misunderstandings and in fact did cause some misunderstandings on the part of some persons who submitted Briefs.

14. We have given considerable thought to the suggestion that transactions in which the cost of borrowing is \$10.00 or less should be excluded from the Act, as it is in some other Provinces. We have come to the conclusion that this suggestion should be adopted.

Admittedly, it may lead to high rates on very short term credit, but after all the amounts involved will be small. As against that there are quite a large number of transactions, particularly involving the payment of insurance premiums by instalments, in which small credit charges are made (e.g. it costs an additional \$1.00 to pay the Manitoba Bar Association Group Life Assurance premium in quarterly instalments). It would serve no useful purpose to require the rate that this represents to be disclosed, and, furthermore, one consequence of setting this \$10.00 exemption limit is likely to be to keep the credit charges on all such transactions down to a maximum of \$10.00.

We feel there will also have to be a power to exempt, by regulation, certain types of transaction from the Act. For instance, it has been brought to our notice that the cost of obtaining credit until harvest time for a hail insurance premium is \$5.00 per \$1,000.00 irrespective of when the insurance is taken out. This seems a reasonable charge, but the annual rate it represents will vary from one farmer to the next depending on when he applies, which will make the calculation most difficult.

15. We recommend that the requirement that the contract contain a description of the goods "by which they may be readily and easily known and distinguished" be dropped in Part II of the Act, that is to say, Sections 9 and 10.

This is actually only necessary in contracts covered by Part V and is repeated in that Part.

The proposal is simply that the words "by which they may be readily and easily known and distinguished" be omitted; the contract should still contain some description of the goods otherwise no one would know what it related to.

16. We also recommend that at the beginning of these two Sections (9 and 10), the words, "or within twenty days after" be omitted. This will mean that the agreement must be signed by the buyer before the goods are delivered or on delivery.

The words concerned appear in this Act solely because they have simply been carried forward from the existing Time Sale Agreement Act. We agree with Professor Ziegel's comment (Paragraph 18 (c) on page 10 of his Brief) that their retention would defeat the whole object of the disclosure requirement. We note that all other Provinces require that the agreement be signed, or the required information disclosed, before the credit is extended, which must be

(STANDING REPORT cont'd) before the goods are delivered. If this is feasible in the rest of the country, it is feasible in Manitoba.

17. The draft Act proposes a minimum limit of \$100.00 in Section 9 and 10; other Provinces have one of \$50.00. There is no valid argument based on uniformity for us to conform. We are merely saying that if the transaction is under \$100.00, you need not comply with the Act. But any vendor who wants to comply with the Act in smaller transactions is perfectly free to do so.

We believe it will be found that most small credit transactions will now be done under a variable credit arrangement, which is governed by Section 13. Individual credit contracts are becoming unusual except on major appliances, and these are likely to exceed \$100,000 in price. Therefore, this minimum limit is somewhat academic.

We believe that in transactions under \$100.00, the cost of complying with the Act (which must ultimately be reflected in the rates charged) is likely to exceed any potential saving to buyers caused by disclosure of rates.

18. The requirement contained in Section 9 (3)(i) and 10 (3)(i) to state the total payment period measured from the date of delivery is causing trouble. These sections may apply to something that has to be specially made, specially ordered, or altered for the buyer's requirements. As a result, the delivery date may be unknown when the contract is signed. But a buyer who starts paying before delivery is paying in advance, and this is the financial equivalent of paying additional interest.

There is a serious problem here. Some people like to order for future delivery, but to start paying at once. If such people are quoted a rate of cost of borrowing calculated over their whole payment period, the result will be misleading.

Extensive amendments to Sections 9 and 10 are recommended to cover: -

(a) Cases where delivery is to be at a fixed date in the future, but payments are to commence before.

(b) Cases where the delivery date is uncertain, but the buyer wants his first payment date to be fixed.

(c) Cases where the delivery date is uncertain, and payment is to commence on or after delivery.

19. The Retail Council of Canada request that the buyer not be required to sign the contract under Sections 9 and 10; the Bar Association asks that he sign an acknowledgment that he has received a copy.

The Retail Council's comment on this seems to be misplaced as they appear to be thinking of variable credit transactions. The Bar Association's suggestion that the buyer is to be given a copy of the contract is sound; it is not, however, necessary for the Act to require that he acknowledge this; the vendor will see to this.

20. Sections 9 (3) and 10 (3) will have to be amended if any alteration is made in the definition of "cost of borrowing", so as to ensure that there is no conflict between these Sections and that definition.

21. It was suggested in some Briefs that these two subsections, 9 (3) and 10 (3), should be changed to conform with those of Ontario and Saskatchewan. The purpose of these two subsections is to set out the information that must be contained in the contract.

After studying the Ontario and Saskatchewan requirements, we feel that the only additional information required by our Act is information that would in fact be given anyway; furthermore, the requirements of our Act are very similar to those of Alberta in this respect.

In addition to the changes recommended in the last six paragraphs, we recommend that:-

(a) In Section 9 (3), there be inserted after "description of the goods", the words "or services". This is because a credit sale of services only is possible; a hire-purchase of services under Section 10 (3) is, on the other hand, impossible, and these words are not required in that subsection.

(b) In paragraph (a), strike out the words, "exclusive of any delivery or installation charge;", and in paragraph (b), add at the end, the words, "if not included in the cash price of the goods;". This change will bring our Act more closely in conformity with the Alberta Act.

The purpose of requiring a statement of the delivery or installation charge is to make sure that the buyer is not faced, when the goods are delivered, with a demand for an additional payment over and above what is shown in the contract; the draft Act attempts to do this by insisting that the delivery or installation charge be shown separately, but this has the effect of preventing

(STANDING REPORT cont'd) a seller from quoting an overall price for the goods and the installation of them; this prohibition is an unnecessary regulation of commerce and the buyer can be given the same protection against an undisclosed charge by making this alteration.

(c) In paragraph (e), change the words, "credit allowed" to "allowance made"; this is to remove this use of the word "credit" in a meaning which is different from that in which it is used elsewhere in the Act.

(d) In paragraph (g), after "expressed" insert the words, "as one sum".

(e) Delete paragraph (i) entirely; this is a requirement which is not found in any other Act, and in fact the information that would be given under this paragraph will be repeated in a slightly different way in paragraph (j).

22. There has been criticism of Section 9 (4) and 10 (4). We believe this is based on a misunderstanding of these subsections.

To remove the source of this misunderstanding, we recommend that the word "thereof" in line six be changed to, "of such succession of instalments".

23. If our recommendation in regard to insurance premiums and the cost of borrowing is accepted, Section 11 will require rewriting and Section 12 can be dropped.

24. It is apparent from the Briefs submitted that extensive alteration will be required in Section 13 which deals with the disclosure of cost of borrowing on variable credit.

The alterations that will be required relate to the following points:-

(a) In view of the information given by representatives of the industry, it appears that paragraphs (a) and (b) of subsection (2) are unnecessary and can be omitted.

(b) Paragraph (d) can also be omitted, but paragraph (c) should be retained; the buyer is entitled to know whether he is going to be required to make payments once a month, twice a month or once a quarter.

(c) Paragraphs (e) and (f) must be retained.

(d) Other Provinces required, in addition, that the buyer should be furnished with a table showing the scale of monthly charges. Thus, if he is quoted an annual rate of 15 percent, he must also be given a table showing what 15 percent per annum produces as a monthly charge; obviously, this cannot be given for every sum from one cent upwards, but it could easily be given for each dollar between \$1.00 and \$10.00, for each \$10.00 up to \$100.00, and for each \$100.00 thereafter.

The requirement for such a table should be put in the Act, but the exact form that the table is to take can be left to be fixed by regulation after consultation with the industry because we believe it is the practice of credit grantors now to furnish such tables.

(e) Paragraph (g), dealing with increases in the interest rate, is part of a problem, the full nature of which does not seem to be comprehended by the representatives of the industry.

If a store extends variable credit at the rate of 15 percent to a particular customer, and that customer buys goods totalling \$500.00, then the bargain between them is that he is to pay interest at 15 percent on this \$500.00 until it is paid off; once he has made a purchase, the store cannot raise the rate on that purchase without his consent. The store can, however, raise the rate at any time on future purchases, and by going on buying the customer by implication agrees to the new rate, provided he is aware of the increase.

Furthermore, a store can require the payment of an increased rate on the existing balance as a condition of permitting further purchases on credit. In this case, the making of further purchases would be an implied consent to the raising of the rate on the existing balance.

It is obvious that some change must be made in paragraph (g). A seller must be permitted to raise the rate on future purchases on reasonable notice. At the other end of the scale, he must not be permitted to raise the rates on an existing balance when no new purchases are made. The Committee must decide whether he should be allowed to require an increased rate on the existing balance as a condition of allowing further purchases. If he is not, he will have to apply two different rates to different parts of the same account, which will be awkward. But if he is allowed to do this, it could be said that he is penalizing a buyer who is unable to switch to a cash basis for future purchases.

Exactly the same question arises in regard to increases in the minimum monthly payments.

(f) We also recommend that the above information need not be necessarily all contained in the contract signed by the buyer, provided that it is given to him in other documents which are delivered to him at the time of signature. This will bring our Act into conformity with those of other Provinces on this point.

(STANDING REPORT cont'd)

(g) A minor change is also required in paragraph (f), because it contemplates that a single interest rate must be charged on the full amount of any balance owing; we believe that the practice of some stores is to charge, say, 18 percent up to \$500.00 and 15 percent beyond it, because this reflects the fact that the size of the account does not increase the amount of paper work. An amendment is required to permit this practice.

(h) Similarly, an amendment is required in subsection (3), because this contemplates that there can be only one master agreement between a vendor and a customer; it is very probable that some stores may want to operate two different types of variable credit accounts, one of which would be a time sale and the other would not. The first of these would be used for major items on which the vendor wished to retain a lien for the price and the other, smaller items in which this was an unnecessary complication.

(i) Subsection (5) requires amendment, because of the possibility that the borrower or buyer will send in the signed agreement to the lender by mail; to cover this possibility, the words "of signature thereof" should be changed to, "the lender accepts the agreement".

(j) A change will be needed in subsection (8) and also in subsection (2) to permit a higher rate of interest to be charged on payments in default provided such a provision is contained in the master agreement.

In addition, the words, "but shall not incur any other pecuniary liability by reason of such default" can be omitted, as the point is covered by Section 28.

(k) In view of our recommendation that the rate of interest on future purchases can be raised on notice, subsection (9) will become unnecessary.

(l) Subsection (10) is not necessary and should be omitted.

(m) When the Act was drafted, it was contemplated that all existing variable credit customers would be required to sign new contracts in accordance with the Act. It is apparent that such an idea is impracticable.

This Section should, therefore, provide that all existing contracts should be continued in force, but that any provision therein which is inconsistent with the Act will be invalid on subsequent purchases, except that if the existing contract does not disclose the interest rate, or does not contain a table of monthly payments, this information can be given to the buyer in writing by registered mail and if so given is thereafter deemed to be incorporated in the contract. 25. If real property mortgages are excluded as we have recommended, Section 14 can be omitted, and chattel mortgages (including those for securing the price of goods sold) brought within Section 15.

Section 15 (2) will require slight alteration if the definition of "cost of borrowing" is changed.

26. Professor Ziegel's comments on prepayments on refinancing have made us realize that the Act contains no provision for disclosure of the cost of borrowing on a refinancing. Clearly it should. Such a transaction is very similar to an ordinary loan, and, therefore, requires a Section similar to Section 15.

The important point, however, is the principal sum on which the cost of borrowing is to be calculated. It should be the outstanding balance less the unearned portion of the cost of borrowing, i. e. the amount required to prepay the original obligation, without the allowance to the seller permitted by Section 23.

27. As regards Section 16, the experience of other Provinces show that the method of computing the cost of borrowing should be contained in regulations rather than the Act so that necessary changes can be made more easily.

We would recommend that the regulations follow either those of Ontario or those made under The Bank Act. There does not seem to be much practical difference between them.

28. Since the draft Act was prepared, we have learnt of a new development in time sales which requires drastic action to prevent evasion of the spirit of the Act.

This new development is that at the time of the purchase, the buyer signs a conditional sales contract which contains a very low interest rate but which is expressed to be payable on demand. The contract is then discounted to a finance agency of some sort, and as soon as this agency receives it, it immediately makes a demand for payment on the buyer and tells him that he can refinance the contract at a higher rate.

We are disturbed to find that this idea seems to have originated with one of the Banks. The possibilities of misleading a buyer in this way are enormous, and after careful consideration, we have come to the conclusion that the only way to prevent it is to prohibit the making of

(STANDING REPORT cont'd) retail time sales payable on demand and to declare that the seller's lien on any such sale is void.

We cannot believe that a retail time sale payable on demand would ever serve any useful purpose, but just in case it might, we would recommend that this prohibition should be qualified so that such a contract could be made with the prior consent of the Registrar.

29. In Section 18 (1), the words "prevailing rate" will have to be changed to "prevailing rate or rates" to allow for the quotation in a variable credit agreement of varying rates.

In addition, the words "of interest" should be added at the end of this Section.

30. Section 19 has attracted comment only from the Bar Association. This is probably because it is really only applicable to real property mortgages.

We recommend that it be removed from this Act and put in The Mortgage Act.

31. Two Briefs have questioned whether Section 20 is constitutional, and one of them raises the same question in regard to some of the adjoining Sections.

The federal Interest Act prohibits the statement of an interest rate per month or week, unless the annual rate is also stated. Lenders have evaded this by charging, instead of interest at a specified rate, a finance charge stated only as a lump sum, which they claim is not interest. We do not see how a provincial attack on this practice can be unconstitutional.

However, we must remember that if a loan agreement simply obligates the borrower to repay the loan with interest at a specified annual rate, the transaction is squarely within The Interest Act, and we cannot reduce the rate that the borrower has to pay. There is no objection from our point of view to such a contract, but nevertheless it would not in fact comply with Sections 9, 10 or 15.

In case this might invalidate this legislation, we recommend inserting in Section 17 (1), 18 (1) and 20 (1) the words, "except as otherwise provided by The Interest Act".

Section 20 (1) requires amendment to cover mis-statement of the rate, as well as the omission to state it.

Section 20 (2) may be unconstitutional because it deals with promissory notes. It is an attempt to tackle the problem in a way that may be constitutional; we can only hope that it is, because we cannot think of a better one.

32. There has been criticism of Section 21, but practically all of it was based on a mis-reading of the Section. This Section was included to meet a specific evil, namely, the quoting of a monthly payment and nothing else, e.g. "You can have this for \$10.00 a month". This is, actually, dishonest advertising, and it is to be noted that only one of the Briefs asks that this form of advertising be permitted. The others all ask that other forms of advertising be permitted; as these are not prohibited by the Section, we see no need to change it.

33. The reaction to Part III of the Act (Prepayment Privileges) is curious. One Brief prefers it to the corresponding provisions of other Provinces; others ask us to conform with those other Provinces.

On investigating, it is our impression that we should adhere to the system of the Rule of the 78ths or sum of the digits, instead of adopting the Ontario system which is based on a slightly different principle known as the sum of the balances. One reason for this recommendation is that it appears to be a great deal easier to explain the Rule of the 78ths than it is to explain the sum of the balances, because the relevant part of the Ontario Regulations is extremely hard to follow.

(It must, however, be noted that the explanation of the Rule of the 78ths in Schedule B of the Act contains four clerical errors which must be corrected —

at the foot of page 43, 2/78ths should be 3/78ths and 3/78ths should be 6/78ths;
on page 44, 2/66ths should be 3/66ths and 2/91sts should be 3/91sts.)

On the other hand, we believe that the Ontario provision allowing the lender to deduct from the rebate one-half thereof up to a maximum of \$20.00 is fairer to both parties than the deduction of a straight 10 percent regardless of the amount involved which is the deduction permitted in the draft Act.

It must be appreciated that the result of Section 25 will be to make every unsecured loan to an individual (other than small loans and loans by Banks) prepayable. We do not see any objection to this.

Additional provisions are required, either here or elsewhere, for prepayment of chattel mortgages.

Section 25 requires a minor alteration. The reference to "blended payments" should be

(STANDING REPORT cont'd) ... dropped, and instead it should refer to the cost of borrowing being "precomputed".

34. The Draft Act deals only with prepayment of the whole balance. Professor Ziegel suggested that it should also provide for partial prepayment. We do not agree with this suggestion.

In the first place, the provisions required would be extremely complicated, see, for instance, paragraph 8 of the Alberta Regulations. In the second place, it would be impossible to provide tables showing the amount of the rebate on a partial prepayment because the prepayment might be of any portion of the unpaid balance; as a result, the credit grantor would have to calculate it each time from the Regulations, and many people would, we believe, find this impossible. Finally, we do not see why a borrower would be given a statutory right to vary his repayment schedule; it is one thing to allow him to pay it all off at once, but it is quite another to allow him to insist on paying it back in instalments which are different from those agreed on.

35. It has been suggested that some of Part IV of the Act (Relief Against Acceleration and Forfeiture) could be unconstitutional.

On investigation, it proves that Section 26 is probably ultravires of the Province, because its purpose is to prohibit a rate of interest on payments in default which is higher than the basic rate payable on the debt while not in default.

Section 8 of The Interest Act specifically prohibits an increased rate of interest on payments in default on real property mortgages. Parliament has no right to legislate on mortgages as such; only on interest. By limiting its prohibition to real property mortgages, it has impliedly sanctioned increased rates of interest on other defaulted payments. Section 26 would purport to alter this and is, therefore, probably ultra vires.

Section 28, however, which prohibits any other penalty for late payment would be valid because it has nothing to do with interest at all.

It is, therefore, recommended that Section 26 be withdrawn and the appropriate changes made in the wording of Section 28.

36. Section 27 deals with relief against acceleration of payment of the balance on default in payment of an instalment. This is unquestionably valid. The references in it to Section 26 will have to be altered.

Two changes in the scope of Section 27 are recommended: -

- (a) It should not apply to sales of land.
- (b) It should apply to chattel mortgages.

Paragraph (f) should be amended to make it clear that it applies only where the borrower does not pay up the arrears, and also to include in the amount that may be recovered all expenses actually incurred by the lender as a result of the default. It should also be made clear that where the borrower has been granted an extension of time, the time of default referred to is the time when the borrower fails to comply with the terms of the extension.

37. Section 29 requires amendment to provide that the lender may recover any expense he has incurred in remedying the borrower's default (e. g. paying an insurance premium), in case this would not be properly classifiable as a loss.

38. The Manitoba Motor Dealers' Brief suggests that many people are selling cars in a small way without being licensed to do so. This is a matter that comes under the purview of the Highway Traffic Act and not this act.

39. The Manitoba Motor Dealers also complain that the restrictions on advertising of rates of interest, etc., on Banks are less onerous than those contained in Section 21 of this Act. In fact, the reverse seems to be the case. Actually, Section 21 prohibits nothing except the advertising of the monthly payment. Their complaints about Bank loans payable on demand will be taken care of by our earlier recommendation on this point.

40. We can see no reason to abandon in Section 33 (Part V), the requirement that the goods must be fully described. In many jurisdictions the contract has to be registered and must, therefore, contain a full description. Nor can we see any sound reason for lengthening the period for delivering a copy of the contract; it is also 20 days in Ontario under the Conditional Sales Act of that Province. In practice a copy of the sales slip is almost always delivered with the goods.

Frankly, there seems to be an air of unreality about these criticisms. If an article is sold on an individual conditional sale (i. e. not on variable credit), the buyer must, in practice, be required to sign the contract before or at delivery, and will then get a copy. If the sale is on variable credit, only a sales slip is required. Surely if the goods are sufficiently valuable to

(STANDING REPORT cont'd) be worth selling on a conditional sale, the buyer will be required to sign the sales slip and can be given a copy, and the sales slip can describe the goods.

41. Like Sections 9 and 10, Section 33, as drawn, allows the agreement to be signed within 20 days after delivery.

It is important to understand the relationship between Sections 9 and 10 on the one hand, and Section 33 on the other. The former are in Part II which deals solely with the disclosure of the amount the borrower has to pay and the annual rate of the cost of borrowing. Section 33 is in Part V which deals with the reservation to the seller of a lien on the goods. In practice, most credit sales will probably fall within both Part II and Part V, but nevertheless, if the seller reserves no lien the sales is not within Part V, and on the other hand if the seller reserves a lien but requires no payment beyond the cash price, the sale will be within Part V but will not be within Part II.

Because the seller is reserving a lien, the agreement must contain a detailed description of the goods, including, for instance, the serial number. This presents a practical problem. Consider, for instance, the purchase of a refrigerator from a retail store. The buyer selects the model, he is told the price and the credit charges and this is all put down in the agreement and signed by him at that time. But the serial number of the refrigerator that is to be delivered to him will not be known until it is taken from the warehouse and put on the delivery truck.

It will greatly inconvenience buyers if they cannot sign any agreement until the serial number is known. It will confuse them if they have to sign two agreements, one dealing with credit disclosure and the other with the vendor's lien.

The solution we suggest is that where a sale is within both Section 9 or 10 and Section 33, the buyer should be given a copy of the agreement at the time of signature, but that if the serial number or other distinguishing mark of the article sold is not then known, the seller can subsequently insert it in the agreement and give the buyer a second copy of the agreement with this in it not later than 20 days after delivery.

42. Section 36 requires elaboration. If three articles are sold in one transaction, and two are adequately described and one not, there is no reason why the seller's rights in the other two should be affected. If the Committee feels it necessary, the words, "but this does not affect the buyer's obligation to pay for them" can also be added.

43. Section 37 has been criticized. It is, however, essential to the Act.

There is a distinct danger that sellers of major appliances could evade this part of the Act by making what is in law a cash sale with a chattel mortgage back to secure the price. The definition of "time sale" in Section 2 (1) (x) prevents this by classifying such a transaction as a time sale. However, it will still look like a chattel mortgage, and an assignee may take one over not realizing that it is a time sale. To protect assignees, Section 57 provides that in this event the assignee is not subject to the vendor's obligations.

To prevent this exemption being used as a means of evading the Act, vendors who use this method must be made to disclose that the transaction is in fact a time sale. That is the purpose of Section 37.

44. Most of the criticism of Part V has been directed at Section 38 which imposes certain statutory conditions and warranties.

The attack on it comes from two directions. The merchants and credit institutions say it goes too far in favour of the consumer, while Professor Ziegel says it does not go far enough.

It is important to realize the present position. There is very little that is new in Section 38; most of it is taken from the Sale of Goods Act. What is new is the prohibition against contracting out. This is done very frequently by some such expression as, "All implied warranties and conditions are excluded", which, of course, is practically meaningless to most buyers.

It is to be noted, however, that in practice this cannot be done unless there is some written agreement signed by the buyer. It is very unusual to have a written agreement on a cash sale to a consumer, so that there does not seem to be any real need to extend Section 38 to all consumer sales. However, it could usefully be extended to all credit sales to consumers (or alternatively to all consumer sales evidenced by a written agreement, which in practice will come to much the same thing) and not confined exclusively to time sales, that is to sales on which the seller reserves a lien.

This answers Professor Ziegel's criticism.

(STANDING REPORT cont'd)

Turning to the other criticism, and again bearing in mind that the real change is only the prohibition against contracting out, the question to be decided is whether, and to what extent, contracting out should be permitted. We can see no good reason for allowing any contracting out of paragraphs (a), (b) and (c), which deal with the vendor's title to the goods, nor of paragraph (d) which merely says that the buyer is entitled to new and unused goods unless he has expressly bought used ones. Nor can we see any good reason for permitting contracting out of paragraph (e); sales which are within this paragraph will be rare anyway.

The real issue is over paragraph (f). It is not in fact so harsh on sellers as it has been made to appear, particularly in view of paragraph (2). If a man buys a five year old car, he will not be able to complain if it has defects which are normal in a car of that age. Furthermore, one can, as it were, contract out by simply listing the defects in the article. The only problem is where the article being sold suffers from a large number of minor defects which it would be tedious to list.

It seems to us, therefore, that the only changes required are as follows:-

- (1) Extend the Section to all retail credit sales.
- (2) Permit the description "used" and the defects to be put on the sales slip in the case of sales on variable credit, as there will in fact be no agreement in which to put them.
- (3) Under paragraphs (e) and (f), make it unnecessary for the defects to be stated specifically if the general condition of the article sold is stated with reasonable accuracy.

There should also be a statutory condition similar to paragraph (f) in retail credit sales of services.

Subsection (2) has been criticized for penalizing too harshly an accidental omission of the age of the goods. This could be remedied by inserting after "agreement" the words, "or is proved beyond reasonable doubt to have been known to the buyer at the time of the sale".

45. It has been suggested that these statutory conditions ought to be required to be reproduced in the agreement, like the statutory conditions in insurance policies. As we are not agreed on this, we have no recommendation to make one way or the other.

46. Objection was taken to the 5 percent limit in Section 39 (1)(c). We recommend that the figure be raised to 10 percent or \$25.00, whichever is the greater. If the seller can prove that the expenses were more than this, he should be allowed to add them to the balance owing by the buyer, but he cannot demand payment thereof at the time of redemption.

The same applies to Section 40 (3)(a).

47. We recommend that Saturdays, Sundays and holidays be excluded in reckoning the 48 hour period in Sections 39 and 40.

48. We feel that insufficient provision has been made to allow for dishonest buyers in connection with repossession. We recommend that if the buyer has

- (a) persistently failed to meet his obligations, and
- (b) deliberately evaded repossession of the goods,

the Court should have the power, on the application of the seller, to cancel the buyer's right to redeem except on payment of the entire balance and expenses of repossession.

49. Section 41 has also been criticized from both sides. We can see no reason whatever to modify it in favour of the seller, as in other Provinces he has to apply to the Court before he can repossess in these circumstances.

The first question for the Committee to decide is whether we should fall into line with the other Provinces in this respect.

The second question is whether there should be a substantial reduction in the amount the buyer has to have paid before he is entitled to this protection, as suggested by Professor Ziegel on pages 15 to 16 of his Brief.

The object of our provision is to protect buyers who have built up a substantial equity in the goods. The object of Professor Ziegel's suggestion is quite different; it is to use this provision as a weapon against irresponsible credit granting. Whether it should be so used is a question of social policy.

50. To remove some fears that have been expressed, we recommend that a section be inserted in The Law of Property Act, to the effect that the seller's ownership of the goods and his right to repossess on default are not prejudiced by --

- (1) An extension of time to the buyer, or any other variation agreed to in writing by both parties.

(STANDING REPORT cont'd)

(2) The redemption of repossessed goods by payment of the amount in default, or remedy-ing of a default, or

(3) Any order of a Court which has the effect of extending the time for payment of the balance.

51. Section 44 (1) and (2) are the "seize or sue" provisions. If the buyer pays up the arrears and thus gets relief from acceleration of the balance, the seller's choice between seizing and suing should be restored for the future.

Subsection (3) restores it where the buyer has paid the arrears after being sued. We need another subsection to restore it where the buyer has paid the arrears after a seizure.

52. In connection with Section 44 (7), some Briefs have asked why a buyer should not be liable for damage caused by wilful act of buyer or by his neglect before repossession. We would agree that he should be liable for damage caused by his deliberate act or wilful neglect. Liability for mere neglect could too easily lead to liability for ordinary wear and tear.

53. We recommend an amendment to Section 45 to cover cases where a component has been replaced, but is itself subject to a lien.

54. As pointed out by Professor Ziegel, the word "chattels" appears in Section 47, where the rest of the Act uses "goods". This is because it is usual to refer to a mortgage on them as a chattel mortgage. Nevertheless, it would be more logical to use the word "goods" in this Section also.

55. Section 47 (2) contains another 48 hour time limit which requires the same treatment as before.

56. Section 48 overlaps Section 29 of The Bills of Sale Act. We recommend that it be omitted and its object accomplished by an amendment to Section 29 of The Bills of Sale Act.

57. We recommend that Direct Sellers be required to be bonded as is the case in Saskatchewan.

58. Section 51, dealing with direct sale agreements, should require that a copy of the agreement be given to the buyer.

59. Certain Briefs asked, in effect, that bona fide retail stores be exempted from the provisions of Part VII (Direct Sellers). This raises a difficult question. There is no doubt that the large retail stores do from time to time send out circulars advertising sales of such things as wall-to-wall carpeting and drapes, or wall-paper; that, as a result of these circulars, people telephone the store and a salesman comes to their home with samples, measures the rooms involved, and prepares a contract which is signed there and then. Such a contract would fall within this Part.

If no change is made, two consequences will follow from this: -

(a) The store and the salesman concerned will have to be licensed under Part X, and also bonded, if bonding is required.

(b) The contract will have to be cancellable for four days, which could be a nuisance if the buyer is in a hurry.

As regards (b), it is to be observed that such a contract has been cancellable under the existing Consumer Credit Act since 1966; if the buyer is really in a hurry, he can exempt the transaction from the Act by going to the store to sign the contract. Really, the only new feature will be the licensing requirement. In practice, this only means that the employees in one or two departments of the store will have to be licensed; the employees concerned will all require training for this job, so that the individuals who require licensing will be known in advance.

We believe, therefore, that the inconvenience involved will not be substantial.

There are only four possible ways in which it can be avoided, viz; -

(1) Omit paragraph (b) of Section 49. This would remove from the category of direct sales transactions initiated by the seller sending out a circular, and confine it to those initiated by a personal or telephone solicitation. We believe this would also exempt a lot of undesirable transactions which should not be exempted.

(2) Insert in the Act a definition of "bona fide retail store", and exempt from this part any store that fulfills this definition. This will cause undesirable uncertainty for buyers. A buyer who has signed a direct sale contract which does not contain the wording required by Section 51 will often not know whether he has been dealing with a seller who is violating the Act, or with one who is exempt from it.

(3) Empower the Registrar to grant certificates of exemption to bona fide retail stores. The store could be required to quote its certificate number on its printed contracts in place of

(STANDING REPORT cont'd) ... the wording required by Section 51. The trouble with this is that it confers a somewhat invidious discretion on the Registrar, the exercise of which is almost certain to cause hard feelings.

(4) Exempt direct sales made under a pre-existing variable credit agreement; this would exempt sales made to existing customers of the seller.

60. It was suggested by the Winnipeg Motor Dealers Association that "motor vehicle" in Section 50 (b) should be changed to "vehicles" and that this word and the word "trailers" should bear the meanings given in The Highway Traffic Act.

The latter suggestion has definite merit; there is no objection to the former, although it will make little practical difference. Apparently it will exempt draglines from this Part; we wonder how many direct sales of draglines occur.

61. We agree with the suggestion, that the liability of an assignee under Section 56 (1) should be restricted to the amount owing on the contract when it was assigned to him.

This Section should also be extended to cover sales of services as well as goods.

62. This is a logical place at which to deal with Professor Ziegel's suggestion that the taking of promissory notes to secure the price of goods or services sold on credit should be prohibited. We agree with this suggestion.

Because promissory notes are a subject of federal legislation, we cannot invalidate such a note. All we can do is to prohibit licensed credit grantors from taking them. A note taken in violation of this prohibition will be valid, but if a credit grantor persists in taking them his licence can be cancelled. This should ensure compliance.

63. An alteration is required in Section 64. At present it would prohibit any money lender from making a non-consumer loan unless he has a licence. This is not, of course, intended. In view of the conclusion we have come to as to what is to be treated as a commercial transaction, the change will be that only loans to individuals will require a licence.

64. A further change is recommended in subsection (3) of Section 64. This exempts lenders who make less than ten loans a year. It should also exempt sellers who make less than ten credit sales a year.

65. The words, "except as otherwise provided" should be inserted at the beginning of Section 88 (1).

66. The Act should contain a prohibition against contracting out.

67. Finally, we have some comments to make on certain suggestions in Professor Ziegel's Brief, which are to be found on the pages indicated:-

Page 21, paragraph 33.

- (a) We agree, and the necessary change should be made.
- (b) We agree, but the power to do this is already contained in Sections 74, 75 and 83 (3).
- (c) We feel that the general residuary power suggested would be too vague. We do not believe that the Registrar should be required or entitled to lay down the rules of commercial morality.

Page 23, paragraph 37.

1. We are generally in favour of such a prohibition, but it is outside our original instructions.
2. This prohibition is already contained in Rule 31 (2) of the Queen's Bench Rules. This Rule also applies to the County Courts.
3. We are not in favour of such a provision.
4. A prohibition of false or deceptive advertisements seems to be, in general, a good idea, but a little difficult to apply in practice. Is it really true that things go better with Coke? A prohibition against misleading or deceptive advertisements would be preferable.
5. The practice referred to is used almost exclusively in direct selling. We feel the cooling-off period is a sufficient protection.
6. We agree that such a prohibition is required. It can probably be accomplished by an amendment to Section 44 making it clear that the seller's lien for the price is confined to the goods comprised in that sale.

SCHEDULE "C"

SUPPLEMENTARY COMMENTS ON DRAFT CONSUMERS PROTECTION CODE RESULTING FROM FEDERAL-PROVINCIAL MEETINGS

A. Page 2 of recommendation of March 4, 1968, #6 -- Alberta has amended their act by adding the words "the official fee, if any," in (B) of (i) and of (ii) and, for uniformity, our

(STANDING REPORT cont'd.) ... recommendation should be changed accordingly.

B. Page 8 of recommendation of March 4, 1968, #20 -- In view of Alberta's amendment to their definition of cost of borrowing above referred to, the second paragraph of #20 should be deleted as official fees will not now be included in the cost of borrowing. It is now felt that Sections 9(3) should remove the requirement of 10 point type in view of our recommendation for a standard form of contract which will be provided by regulation.

C. Definition of time sale in Section 2(1)(x) should be amended to include services as well as goods.

D. Page 12 of recommendation of March 4, 1968, #25 -- Loans made by insurance companies to policy holders should be excluded from the Act.

E. Page 14 of recommendation of March 4, 1968, #31 -- (Last Paragraph) -- It is recommended that the provisions of Section 16(1)(d) and 27 of The Ontario Act be included in our Section 20. These will require:

(a) That the Contract itself contain particulars of any additional security being taken (e.g. promissory notes, conditional sale agreements, chattel mortgages, etc.); and

(b) a copy of the Contract itself, setting out the Statement of the Cost of Borrowing, etc., be passed on with any transfer of a promissory note given to secure the credit.

F. Page 15 of recommendation of March 4, 1968, #33 -- Both Alberta and Ontario have found that the Rule of 78ths can be used in calculating rebates only when regular monthly payments are provided for in the contract and that it is not possible to apply this rule to uneven payments or skipped payments. As experience in the other provinces has shown that it is difficult to spell out the rebate provisions in the statute, it is recommended that Section 23(3) be amended to authorize the rebate provision as prescribed in the regulations and that the Sum of the Balances method similar to Ontario and Alberta be covered by regulation.

G. Page 20 of recommendation of March 4, 1968, #45 -- Progress is being made on a standard form of conditional sales contract and, while it is not possible at this time to provide for such a contract in the Act, it is recommended that provision be made to authorize such a standard contract by regulation when agreement has been reached on same. It is, therefore, recommended that Section 86 be enlarged to so provide.

H. Page 22 of recommendation of March 4, 1968, #57 -- Consideration should also be given as to whether or not all direct sellers should be licensed and bonded rather than the present limitation on only direct sales in which a written contract is made. Saskatchewan's problems in this area indicate that all direct sales should be subject to the cooling-off period.

ADDITIONAL RECOMMENDATIONS OF A GENERAL NATURE

1. If real property mortgage transactions are removed from the draft, the disclosure provisions, particularly with respect to balloon payments, should be contained in The Mortgage Act or Regulations.

2. In redrafting the Act, the draftsman should consider whether or not the more commonly used terms such as "consumer credit sale", "consumer lease" and "consumer rental-purchase" might not be substituted for the terms in the draft Act. (See American Consumers Credit Code.)

3. If The Unconscionable Transactions Act is to be left as a separate statute, it should be amended to provide that an acknowledgment contemplated by Section 8(2) could be made before a barrister or solicitor entitled to practice in any Canadian Province -- not just Manitoba.

4. Specific penalty provisions should be included in the draft for failure to comply with the provisions thereof. All the consumer protection acts of other provinces provide for specific penalties (i.e. Alberta Section 24 -- maximum fee fine \$1000. if a corporation or \$500. if an individual. Ontario Section 32 -- \$25,000. for a corporation and \$2000. for an individual).

5. As it is not possible to guarantee protection to consumers in all aspects of consumer activities in Manitoba the Bureau under Part XX should be referred to simply as the Consumer Bureau.

Consideration should be given to expanding Section 62(c) to include dissemination of information respecting business practices and consumer legislation generally. The educational function of the Bureau should not be restricted to consumer credit.

While Section 63 permits the bureau to examine books and records there is no authority to investigate by taking evidence under oath. In many instances examination of records would be of little value without inquiry relative thereto and explanation by the custodian of the books and records. Consideration should be given to empowering the Registrar of the Bureau to conduct examinations under oath and for such purposes to summons witnesses. (See Powers of

(STANDING REPORT cont'd.) . . . Commissioners under Part V of The Manitoba Evidence Act.)

6. Credit Cards -- The use of credit cards is expanding each year and in most cases such credit charges would not be considered a credit transaction unless payments are not made within the 30 day or more time limit, after which default charges are assessed. The draft Act should be clarified in this respect as many credit card companies are actually assessing credit charges but are calling them default charges.
7. Balloon payments -- Consideration should be given as to whether or not such payments should be outlawed entirely in consumer credit transactions or, in the alternative, whether provision should be made that the borrower should be entitled to refinance with the same lender at a no less favourable rate.
8. Wage Assignments -- Consideration should be given as to whether or not wage assignments in consumer credit purchases should be prohibited either in this draft or in other legislation. Ontario has banned such assignments in consumer transactions by an amendment to The Wages Act.
9. Relief Against Acceleration and Forfeiture -- There should be a provision in the Draft Act to the effect that upon payment of the instalments in default, or acceleration and forfeiture are otherwise relieved, the Seller's rights under the Contract are restored to their previous position prior to default, acceleration, etc. so that he could re-accelerate, repossess, etc. in the event of subsequent default by the Buyer. This may be implied in the Draft, but would be useful for the purposes of certainty and a Seller's future rights and position. This might be included as a subsection to Section 27 of the Draft.

MR. LYON: Mr. Speaker, I beg to move, seconded by the Honourable Provincial Treasurer, that the report of the committee be received.

..... continued on next page.

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

MR. ROBERT STEEN (St. Matthews): Mr. Speaker, I beg to present the Report of the Special Committee on Professional Associations.

MR. CLERK: Your Special Committee on Professional Associations begs leave to present the following as their first report.

Your Special Committee appointed March 28, 1968 met on Feb. 26th, 1969 and appointed Mr. Steen as Chairman. Quorum was set at 7.

Your Committee heard a report from Mr. J. O'Sullivan on a study undertaken by the Manitoba Bar Association at the request of the previous Committee on existing Manitoba legislation establishing the various professional associations.

Mr. O'Sullivan indicated that his Committee would be in a position to make a final report in six weeks time.

Your Committee requested that it be reconstituted with the same powers and personnel and that it holds its first meeting during the course of the 3rd Session of the 28th Legislature, and that all members of the Committee be supplied with copies of the final report of the O'Sullivan Special Committee of the Manitoba Bar Association, and the pertinent parts of the report of the McRuer Royal Commission inquiring into civil rights in Ontario.

The Committee was unanimous in expressing its gratitude to Mr. O'Sullivan and his Committee for the work done to date.

All of which is respectfully submitted.

MR. STEEN: Mr. Speaker, I beg to move, seconded by the Honourable Member from Fisher, that the report of the Committee be received.

MR. SPEAKER presented the motion.

MR. SPEAKER: The Honourable Member for St. John's.

MR. CHERNIACK: I beg to move, seconded by the Honourable Member for Elmwood, that the debate be adjourned.

MR. GORDON E. JOHNSTON (Portage La Prairie): Mr. Speaker, I would like to speak on the motion if the mover would hold the motion.

MR. CHERNIACK: Mr. Speaker, if the Member of the Liberal party wishes to speak, I will speak as well.

MR. T. P. HILLHOUSE Q. C. (Selkirk): privilege, Mr. Speaker, of speaking after the Honourable Member for Portage la Prairie.

MR. SPEAKER: May I put the motion to the House please. Moved by the Honourable Member for St. John's, seconded by

MR. CHERNIACK: Mr. Speaker, may I be permitted to withdraw the motion in view of the fact that other members wish to speak today. I thought there wouldn't be that desire because of the fact that the Leader of the New Democratic Party was going to speak on the Speech from the Throne. I thought we wouldn't be speaking, but if we will be speaking today then I would like permission to withdraw the motion. I am prepared to speak.

MR. SPEAKER: The Honourable Member from Portage la Prairie.

MR. JOHNSTON: Mr. Speaker, I begin by apologizing to the Leader of the New Democratic Party, but I believe last week a precedent had been established where a similar motion was dealt with and spoken to at that time and I assure you I will not take much time today.

I think the members of the House should be aware of how this committee was established and what has happened in the intervening years. The committee dealing with the professional services was first constituted in 1966. I believe after the initial meeting an election was called and that was the end of the committee in that year. The Committee was reconstituted in 1967 and I believe one meeting was held. The same in 1968, Mr. Speaker. In 1969, the yearly meeting was held again on the day before the session was called. At that time, although I was not aware that the chairman had been in hospital and I'm certainly not criticizing him for his lack of effort because of that disability, but I think, Mr. Speaker, it should be pointed out that the history of this committee, and the action that has been taken over the years by it, is a disgrace.

There is presently lying on a shelf gathering dust a very expensive report and a very time consuming operation by the members of the committee. I'm referring now to the Committee on Dental Services. This report has been lying on the shelf for three years I believe. The public are waiting for action in this regard; the so-called denturists are looking for some direction; the Dental Association is very upset at this time; and here we have a committee which is set up to deal with the problems of this nature, and what are they doing? They are going through

(MR. JOHNSTON cont'd)... the motions once a year of meeting and pretending to do something. This final meeting, Mr. Speaker, a few days ago was so bad that the Honourable Member for St. John's felt that there should be another chairman so that some action could be proceeded with. Another chairman was nominated and the government forces voted this chairman down.

This Committee in its previous meeting had appointed a voluntary committee from the bar association to take into account all the Acts of self-governing bodies in the province. This committee was headed up by Mr. Joe O'Sullivan, and I might say that they have done a great deal of hard work in compiling the results of all of the Acts of self-governing bodies in the province, and you know, Mr. Speaker, when the meeting was called last week Mr. O'Sullivan and his group were not notified of the meeting. We had to adjourn the meeting to give the chairman the chance to go to the telephone to consult with Mr. O'Sullivan to ask him if he would care to attend and to ask him if he had a report to make. Now that's what's been happening in this particular committee and I think the members of the House should be aware of this. In my opinion, and in the opinion of others on the committee, it's been a farce; it's been treated as a smokescreen to cover up problems that exist in this area; and I think that when this committee adjourns again, certainly next year when they report progress, it will surely mean progress and not what the report is this time.

MR. SPEAKER: The Honourable Member for Selkirk.

MR. HILLHOUSE: Mr. Speaker, I am speaking as a member of this committee, and in what I have to say I am not casting any reflection on the chairman of that committee because the chairman of that committee is not at all responsible for the lack of action on the part of the committee, he only having been appointed chairman on the morning of the 26th day of February, 1969, but I do criticize the government most severely for their lack of action in respect of this committee. I consider that their lack of action was an act of the greatest discourtesy towards the members of the Manitoba Bar Association who agreed voluntarily, and gratuitously, to undertake the work of this association, and I think, Mr. Speaker, I should put on record, in chronological order, what transpired at that committee.

When that committee meeting was called on the morning of the 26th of February, there was a wrangle over the appointment of the chairman. Finally, Mr. Steen was appointed chairman. Then the chairman was asked if he had anything to report; there was nothing to report. I asked the chairman whether or no he had had any communication from the Manitoba Bar Association, as I had been advised that the Manitoba Bar Association had set up a committee to work on this particular subject and that professors and lecturers from the Manitoba Law School engaged in the work of that committee. I also advised him that I was of the opinion that that committee was pretty nearly ready to report. Just about that time the Honourable Member for St. James, he produced a typewritten motion which was to the effect that this committee be abandoned and that a commission be appointed to look into this particular work. I pressed my point then on the basis of courtesy towards the Manitoba Bar Association, and asked the chairman if he would not make some investigation there to find out what had happened. He decided that he would and the meeting was adjourned for some 15 or 20 minutes while they got in touch with Mr. Joe O'Sullivan. Mr. Joe O'Sullivan, who was the chairman of that committee, subsequently appeared and he gave to the committee a summary of the work that they had done to date and advised the committee within the course of the next three or four weeks that that committee would be ready to submit its report.

Now I am bringing these things out, Mr. Chairman, to show you and to show the members of this House the lack of interest that this government is taking in these special committees that they're appointing. This committee was set up to do a work which was needed. The reason why the committee was set up was on the motion of the Honourable Member for St. John's, and he is to be commended for bringing that motion into this House, but the attitude of the government was expressed through the Minister, the Honourable Provincial Secretary, who said that this was not a government motion. Now that was the attitude of the government members in that committee towards the work of the committee. Simply because that committee was not constituted initially by a government motion, they felt that they should not take any part in it. Now I think it's a crying shame. There's two bills that were before this House that are being held up simply on account of the fact that that committee has not submitted any report, and I think it's a shame that the people of Manitoba should be faced with such dilatory tactics on the part of this government. This government wants to give everybody the impression that they are a government of action, that they're setting up this, that and every other committee to

(MR. HILLHOUSE cont'd) do certain things, and, Mr. Chairman, they're doing nothing.

MR. SPEAKER: The Honourable Member for St. John's.

MR. CHERNIACK: Mr. Chairman, I should start out by thanking the members of the Liberal Party for recounting the history of this committee and saving me the trouble of doing that. I think it's quite clear that the government has been most neglectful in going ahead with the business of this Legislature and what was delegated to a committee. The stupidity of it all is revealed by the fact that there is no party principle involved; it's not that it's a matter which involves either the Conservative Party or the Liberal Party or the New Democratic Party insofar as platform is concerned. When I presented this motion originally way back in 1966 - and there are some members of this House who were not even in the House when this was first brought in - it was greeted with a unanimous - and I'm sure it was unanimous - reaction by the House that this was a matter worthy of study, and then from year to year committees have been appointed which didn't meet, but - I mean didn't meet often - but on the occasion when it met last, which is over a year ago as I recall it, some definite lines of procedure were established by the committee as to what was to be done.

Incidentally, this matter's been dragging for so long that the Honourable Member for Selkirk has forgotten that the bills that were presented and referred to this committee were not referred on the last occasion but two times ago, or one time beyond that, so that those bills just died sort of a natural death, but much premature, simply because of what I call the stupid action of the government for not proceeding with something like that. It would have been a matter to their pride only had the matter proceeded, but peculiarly enough the Honourable the Minister of Transportation - I think he's going to be called - is the one who said, "Well, what do you want from us? This is Cherniack's idea and we're just going ahead with it." Well, that's absolutely wrong. This was the unanimous decision of this Legislature to proceed with it, and when we, the committee, discussed how we wanted to deal with the problem - and it's a difficult problem and it doesn't have obvious solutions - we decided that we wanted to know what is the situation in Manitoba now. There was some 18 or 20 different Acts with different rules, conflicting principles involved as to how you establish these associations, as to what powers would be given to them.

I recall that the question of citizenship arises in different ways. You ~~have~~ have to be a citizen of Canada in order to treat a horse, but you don't have to be a citizen in order to treat a human being, which may be a justifiable approach to the problem but it's certainly one that needs some kind of consideration. You don't have to be a citizen to be a pharmacist but you apparently have to have applied for citizenship, and just what the distinction there is, I'm not clear on.

This was gone into three years ago and the House considered then that it was important, and we said, let's study the existing situation. Secondly, let's study what is happening in other jurisdictions because the problem is not unique to Manitoba, and I had occasion to recount to the committee the studies I had made, and what I had learned was the way in which these matters, and various aspects of them, were being dealt with in other jurisdictions - Great Britain, Alberta, Oregon, California, New York and there are more that have studied an approach to this. There are important principles involved, so we said we would involve the Bar Association in the preliminary study as to what is being done so that we'd have the facts. We would then try to assess the general principles on which they ought to be governed, where they ought to be handled, and then consider any further legislation.

But again I use the word "stupidity" and I don't withdraw it. We come along a week ago - well, less than a week ago, the day before the session was due to start - the first meeting of this committee, and the spokesman for the government and I assume that the Whip was the spokesman for the government, he may not have been - but he was ready on behalf of himself, if not of the government, with a mimeographed draft report of the Committee of Professional Associations, which I think was really something. We met for the first time, we elected a chairman, and he already had printed in mimeographed form the report, a draft of the report that this committee would present, and that draft report involved the appointment of a commissioner to be authorized to examine the statutes and regulations governing all the professional and other vocational associations, their licensing, etc.

Mr. Speaker, where was the government, or its representatives, at all the meetings, the very few meetings of this committee which had dealt in the past with proceeding with the request to the Bar Association to do exactly what the government now came up with and said, "Let's have a commissioner."

MR. DOUGLAS M. STANES (St. James): Mr. Chairman, I want to correct a matter. My attempt here was to bring in a motion of some help to the committee at that stage. It was not a report in any form; it was a suggested motion.

MR. CHERNIACK: I appreciate the Honourable Member from St. James' remarks. The fact is, it reads: "Draft Report of the Committee on Professional Associations", and I didn't acquire this by any surreptitious means. He pushed it across the table to me to have and I have it from him and it says: "Your committee recommends. . ." Now this may be a motion, because I suppose all reports start with a motion that the following be the report, but what I'm getting at, not only was the fact that he wanted to be helpful to the committee but that either he, or whoever else may have drawn this, was ignorant of the fact that the committee, the previous committee, had commenced to do certain work. This is really what I call stupidity, in the sense that the government apparently didn't know what the committee had done - and the government has the majority of members on the committee - didn't know what had been done. It would seem to me that even the former chairman, who has been chairman for each of these committees in the past, could not have read this proposal because had he done so he would have known, because he does know what has been done. So that the government proceeds as if nothing had been done and proposes, or one of the members proposes, that we start to do what we had already embarked on doing, and that is a study. One of the important statements made by Mr. O'Sullivan, who agreed on behalf of the committee to voluntarily and without cost proceed with this very study, was that they had had no deadline and things proceeded in a casual manner because the people with whom he was dealing, to whom he had delegated portions of the work, didn't have any impetus to proceed and have it done by a certain time. He said there was no deadline and we proceeded, and they've done a very large piece of work. They have almost completed the first step and a very voluminous job they did. Of course the government doesn't know that.

Well, I didn't know it either but then I don't have the responsibility that the Ministers in the front row have of seeing that business of the Legislature proceeds. But one can say, "You were a member of the committee." That has been said to me in the past when I have complained about committees not meeting and someone said, "Well, you're a member of the committee; you had the same status as did any other member of the committee." So because I had that responsibility I did take the trouble to write to the Honourable the Attorney-General in his capacity as House Leader on two occasions - I think one was last August and the other letter was last October - I may be wrong in the dates but I have them here in case the Honourable the Attorney-General would like the dates, or anyone else. I wrote and I pointed out that this committee and the other committee of which I am a member, Statutory Regulations, had not met and should meet because there was important business that it had to do, and I received a reply on very nice stationery of the Attorney-General, concise and brief - no use wasting too much verbiage on it - the reply of July 25th acknowledges receipt of the letters and the body, the main content of this letter is, "You can be assured that the committees will be convened in due course," and of course having been assured that, I knew they would be. On December 20th I received a reply from him: "Further to your recent letter I can advise you that you will be receiving, before long, notification of the next meetings of the committees of the House about which you were enquiring", and I suppose it's not too long from December 20th until sometime in February for a meeting held in March, but that's the fact.

This was, as I say, a problem of a committee which I don't think required any apprehension on the part of the government, there was no reason for the government to fear the calling together of the members, no reason for the government to feel embarrassed for its failings, of which it has many, but in this respect the only failing was the very one of which they are guilty and which I have termed as being stupid. The only failing was not to call the meeting. There is nothing else that the government should have done in connection with this project than to call a meeting and see that the work is done, because the chairman of the committee was - - there was no committee and therefore there was no chairman. Had there only been one meeting called for five minutes to appoint that chairman, then assuming the same chairman would have been appointed as was appointed, I'm certain that the work would have been proceeded with much more quickly, because having the responsibility and the authority he would have been in official communication with the Bar Association and would have proceeded to see that the work was done and ready and well advanced. I know that to be true because I know his interest in this; I know he recognizes its importance; I know he would have seen that

(MR. CHERNIACK cont'd)... it was done. But not having had the opportunity to be appointed, I can understand what I assume was his reluctance to appear officious when he had no office to justify it.

So that I can only say, Mr. Speaker, the government having been so stupid in the past in its failure to call meetings to see that this work was being done, may yet mend its ways. We're getting closer and closer to an election and maybe it shouldn't have this stigma of lack of action and a stupid approach and lethargic attitude. Boy, the way they move, or fail to move, is something that they wouldn't like the people to see! People have lately seen that the First Minister has the ability to sit on his seat and insist on remaining until something happens. Well, that's a matter of immobility for which he has received credit, but the mobility that any government should have in regard to dealings of committees has yet to be seen. Possibly they will proceed a little more hastily, and I would suggest, since I expect that in line with the recommendation that there will be a motion before us that a new committee be appointed to deal with this matter, and since it's obvious that on this side we have no confidence based on past records that the committee would be called to meet as soon as it should, I would suggest that the least that that resolution ought to do, and maybe all - not maybe - I think all resolutions appointing committees should contain in their body the appointment of a chairman or of a convenor, so at least a finger can be pointed at a convenor by the members to say, "Here's a man; call a meeting." I think that's a helpful suggestion, and I offer it in that straightforward way as being a way of doing it because I am not aware of any Minister who has within his realm of responsibility the convening of a meeting of, let's say, this committee dealing with professionals. It doesn't to my mind fall in neatly into any particular department, and therefore although I addressed myself to the House Leader when I wrote to him, I don't know whether he himself had the authority to call a meeting or to see that a meeting was called. So I offer this suggestion for consideration that when committees are appointed by the House the resolution should contain within it the appointment of a chairman. The government knows in advance whom they're going to appoint anyway. Besides, they can always shift them around if they want to, just as we can members of the committee, that they put in there the name of the convenor so that at least he will know that it is his responsibility to do.

Mr. Speaker, I want only to point out that the criticism that has been launched against the government is a general one which the government I believe has earned, but the work of this committee I think is still an important one. There is really great confusion in the Acts, and now we find the peculiar situation that two people appeared before this last meeting and indicated to the meeting that they were told by responsible civil servants that there's no use presenting a bill for one or another association or professional bodies as a Private Member's Bill because it would probably be routed to this committee and that this committee would want to consider it. They came ready to discuss with this committee proposed legislation which they wanted to bring in, and I don't fault anyone for their having been routed to the committee, except of course I fault the government for not having appointed one. But there are professional associations that are now in a dilemma as to how to proceed. To come in the usual way would mean that they are possibly bringing in proposed legislation which would not be acceptable in the light of the study that we should have had, and to come to this committee would not give them any sort of assurance that they are going in the right direction because the committee hasn't progressed that far.

I believe that the members of the committee that was in existence were anxious to proceed, and if they or anyone else appointed to the committee would have an opportunity to meet, there is much that they could do and much they could do for the welfare of the people who consume the services offered by these professional associations. Procedures by way of appeal, procedures for complaint, procedures for the public to be protected are all involved in this really important issue, and I would urge that the government mend its ways and see to it that a resolution is brought in quickly appointing a new committee and see to it that that committee is constituted so it can proceed to deal with those matters which we know now will be coming very soon to the committee from the Bar Association sub-committee.

MR. SPEAKER: The Honourable Member for Rhineland.

MR. JACOB M. FROESE (Rhineland): Mr. Speaker, just a few words on this matter that has been discussed quite fully at this time. I appreciate the suggestion made by the Honourable Member for St. John's that a convenor be named to a committee who would be responsible for calling the first meeting. Failing that, I would suggest that all committees have their first

(MR. FROESE cont'd)... meeting while the session is still on. This would involve no cost at all and certainly the committees would then be established and would be operative and that they would have a chairman, and also the objectives and so on could be outlined. I think it was only because of the Honourable Member for St. John's presence at the committee meeting that we had the minutes of a previous committee meeting from the previous year which gave us some information as to what had transpired and what had happened, so that we as a result were informed what had taken place previously and that a committee had been assigned some work and which later on reported.

I should mention one other thing, in that I along with the Member for St. James were not members of the previous committee and probably were not aware of what had been going on. I am saying this not as an excuse on his part but certainly it could well be that he was not informed as to what had transpired on previous occasions.

MR. SPEAKER: Are you ready for the question? The Honourable Member for St. Boniface.

MR. LAURENT DESJARDINS (St. Boniface): Mr. Speaker, I'd like to move, seconded by the Honourable Member for Selkirk, that the debate be adjourned.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried.

MR. SPEAKER: Adjourned debate on the proposed motion of the Honourable Member for Winnipeg Centre. The Honourable Member for Gladstone.

MR. NELSON SHOEMAKER (Gladstone): Mr. Speaker, I beg the indulgence of the House to have the matter stand once again, but if there is anyone else that wishes to speak today they can feel free to do so so far as I'm concerned.

MR. SPEAKER: Does the honourable member have leave? -- Agreed. The proposed motion of the Honourable Minister of Municipal Affairs. The Honourable Member for Seven Oaks.

MR. SAUL MILLER (Seven Oaks): Mr. Speaker, I would ask the indulgence of the House to let this matter stand.

MR. SPEAKER: Agreed. Before the Orders of the Day, I would like to direct the attention of the honourable members to my gallery and inform them that a major industry in Manitoba is represented in the House today in the person of Miss Marilyn Muirhead. Miss Muirhead was crowned the Honey Queen for Manitoba on March 3rd. For the further edification of the honourable members, Miss Muirhead will travel to Ottawa shortly to take part in the National Honey Queen Contest and she is accompanied today by Mr. and Mrs Bob Douglas, President of the Manitoba Beekeepers' Association of Manitoba.

On behalf of all the honourable members, I welcome you here today and wish you every success in Eastern Canada.

Orders of the Day. The Honourable the Attorney-General.

MR. LYON: Mr. Speaker, on Friday last I was questioned by the Honourable the Member for Inkster concerning a complaint by the Manitoba Indian Brotherhood against Magistrate Isaac Rice. I can now report on that situation.

On receiving the complaint from the Indian Brotherhood a transcript of the telecast was obtained -- the telecast that is of the portion of the Public Eye Program of February 5th, and it was reviewed. Last weekend when Magistrate Rice was released from hospital -- and I interject that as honourable members may already know the Magistrate has recently been hospitalized and on the advice of his physician will require a further extended period of sick leave -- on his release from hospital the complaint was made known to the magistrate and I have now received his comments thereon and I would like to read this to the House. It's a letter addressed to me dated March 3rd, 1969.

"Dear Mr. Lyon: Re: Manitoba Indian Brotherhood. I have received from Chief Magistrate Gyles a copy of the letter dated February 24th, 1969, which he received from Messrs. Grafton Dowhan and Company on behalf of the Manitoba Indian Brotherhood in which it is submitted that remarks made by me on a CBC TV program, The Public Eye, broadcast on February 5th, 1969, were defamatory of the Indian people and indicated on my part a bias against them. Without giving any consideration to whether or not on a fair interpretation of what I said my remarks reasonably could be held to be defamatory, I am aghast at the mere possibility that they could have been so understood. I assure you that I had no intention whatever of defaming our Indian fellow citizens. I am too acutely aware of the problems that afflict them without adding that of being defamed, and I hasten to offer my most sincere apology for having

(MR. LYON cont'd)... said anything that could lend itself to any such interpretation. As regards bias, I am not conscious of any except to the extent that a deeplyfelt regard for our Indian and Metis fellow citizens, particularly those who have come before me as a magistrate, and an abiding desire to do everything in my power to help them properly can be described as a bias. I would appreciate your conveying the contents of this letter to the Manitoba Indian Brotherhood in your capacity as the Minister responsible for the good administration of justice in Manitoba." Signed "Yours sincerely, Isaac Rice."

Mr. Speaker, after reviewing the whole situation I can report that I accept Magistrate Rice's statement of his position and am advising the Indian Brotherhood that I do not propose to take any further action on their complaint.

MR. SPEAKER; Orders of the Day. The Honourable Member for Hamiota.

MR. EARL DAWSON (Hamiota): Mr. Speaker, I'd like to address my question to the Minister of Mines and Natural Resources. You recall yesterday I asked you about the problem of deer in the Rivers area. I have information, and I wanted to know if you are aware of the same thing, that there is a herd of 60 deer floundering in snow up to their shoulders without any food nearby and there is already one carcass lying there. Are you aware of this problem?

HON. HARRY J. ENNS (Minister of Mines and Natural Resources) (Rockwood-Iberville): Mr. Speaker, this specific incident has been brought to my attention.

MR. DAWSON: My question -- another one -- is: Are you prepared to do anything about this? I feel it's an emergency. So do the people of that area.

HON. J. DOUGLAS WATT (Minister of Agriculture) (Arthur): Mr. Speaker, before the Orders of the Day, I'd like to draw your attention to a slight error in Hansard of March 3rd. In the second line in my remarks near the top of the page reference is made to a polled heifer bull. That should read polled Hereford, Mr. Speaker.

HON. GURNEY EVANS (Minister of Finance) (Fort Rouge): Mr. Speaker, I'd like to lay on the table of the House the following reports: A Return under Section 1-11-2 of The Insurance Act dated March, 1969; report on the annual examination of accounts as required by The Mental Health Act for the year ended March 31st, 1968; statements prepared pursuant to Section 20 of The Public Officer's Act as amended by Chapter 56 of the Statutes of Manitoba, 1955, as at February 10th, 1969; a copy of the Public Accounts which have already been sent out to members of the Legislature; a detailed statement of all remissions made under the authority of Section 50 of Chapter 272 of the Revised Statutes of Manitoba, 1954 since the last similar statement was submitted to the Legislature -- this document dated March, 1969; a report of the Treasury Board on the statement of public accounts for the Province of Manitoba for the fiscal year ending the 31st of March, 1968; the Manitoba Hydro-Electric Board's 17th Annual Report for the year ended March 31st, 1968; the 60th -- correction there -- the Annual Report 1967-68 of the Manitoba Telephone System.

MR. ENNS: Mr. Speaker, I wonder if I could also take this opportunity to lay before the House the Eighth Annual Report for the year ending March 31st, 1968, of the Manitoba Water Supply Board. Also, a report of the Board of the Manitoba Farm Loans Association for the period ending March 31st, 1968. Also, Mr. Speaker, I would like to lay on the table of the House a Return to an Order of the House No. 12 dated March 15th, 1968, on a motion of the Honourable Member for Brokenhead.

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

MR. ELMAN GUTTORMSON (St. George): Mr. Speaker, I have a question I'd like to direct to the First Minister. Can he indicate to the House if it's the intention of the government to make known quickly the medicare plan -- the details of the plan.

HON. GEORGE JOHNSON (Minister of Health and Social Services) (Gimli): Mr. Speaker, a great deal of information is hopefully to be made available. I thought the best way to do it would probably be to prepare a statement for the honourable members. I'll try and have that in a day or so. In the meantime -- especially with respect to the municipal arrangements, copies of the letters have gone out to the municipalities and the details of other arrangements can be made available in a Paper. I thought I could just prepare a factual paper of the material that has gone to date. I can inform the honourable members that the corporation have advised me that -- I think a brochure went out today to the householders and they'll be starting with the information getting through the daily newspapers and weeklies and so on to those who will be having to pay premiums during this current month. The detailed lists of the schedule of benefits and regulations re these benefits will be in the hands of the doctors of the province

(MR. JOHNSON Cont'd) . . . within two weeks, and they're still working on certain complicated matters with the profession at this time.

MR. GUTTORMSON: Mr. Speaker, I have a question I'd like to direct to the Provincial Treasurer. Is it the intention of the government to have a savings bond issue this year?

MR. EVANS: There is no present intention. I would not want to preclude any action we might want to take in the future, but there is no present intention.

MR. GUTTORMSON: A subsequent question. -- (Interjection) -- I have a subsequent question.

MR. SPEAKER: Supplementary question?

MR. GUTTORMSON: Yes. Mr. Speaker, I'd like to ask the Provincial Treasurer has there been a heavy redemption of previous issues in view of the higher interest rates offered by federal bonds?

MR. EVANS: Yes. Over the past year or more, in fact over the past two years, there has been a very heavy redemption of our savings bonds. They are reduced now to a comparatively low figure. They're no longer a matter of concern in the present financing picture.

MR. SPEAKER: The Honourable Member for Hamiota.

MR. DAWSON: Mr. Speaker, is the Minister of Mines and Natural Resources not going to answer my question? Surely it's important enough; it's a natural resource.

MR. LYON: I would hope that we wouldn't have to establish this point again in this Session, but certainly honourable members should realize by now that questions may or may not be answered by the Bench. Sometimes it depends on whether or not they can be answered, or at other times it depends on their triviality.

MR. DESJARDINS: Mr. Speaker, is the Minister suggesting that this was not a serious question?

MR. LYON: adverting to the rules of the House.

MR. SPEAKER: Order please. Would the honourable gentlemen resume their seats. The opinion of the Attorney-General given a moment ago was immediately prior to the thought I had in mind. I felt that in my opinion that the Minister had dealt with the question that the Honourable Member for Hamiota had brought up. However, we're now ready for the next question from the Honourable Member for Inkster.

MR. SIDNEY GREEN (Inkster): Mr. Speaker, I'd like to direct a question to the Honourable the Attorney-General. I understood him to say, relative to Magistrate Rice, that he had a transcript of the CBC program, and I wonder whether a copy of that could be made available.

MR. LYON: Yes, Mr. Speaker, I'll be glad to make it available to my honourable friend.

MR. SPEAKER: The Honourable Member for Burrows.

MR. BEN HANUSCHAK (Burrows): Mr. Speaker, I wish to direct my question to the Honourable Minister of Consumer Affairs. Is he prepared to answer my question today as to whether or not he intends to appear on behalf of the Manitoba consumers before the Milk Control Board in the course of an application for an increase in the price of milk?

HON. J. B. CARROLL (Minister of Consumer and Corporate Affairs, and Minister of Tourism and Recreation) (The Pas): Yes, Mr. Speaker. We've had a chance to have a look at the Milk Control Act and we find that the Milk Control Board are charged with the responsibility in the establishment of prices, in looking at the producer interests as well as the consumer interests in the establishment of these prices, and we feel that it would be wrong for a department of government to appear before such a board, who is charged with establishing fair and equitable prices, to plead a case on behalf of one of the particular interests involved. I think that we would agree that there are others in the province who may more adequately represent the views of consumers before such a board and that would be the Manitoba Division of the Consumers' Association of Canada, who I believe are quite well prepared to make representations of this kind.

I would like to also comment on another question that was raised by the Member for Burrows and that was in connection with the Arts Council and an annual report from them. I would like to point out that the Arts Council has not yet been established. Consideration of the formation of this council is presently before Cabinet. We would hope to have something further to say about it shortly.

MR. SPEAKER: The Honourable Member for St. John's.

MR. CHERNIACK: Mr. Speaker, may I not ask the Honourable Minister for Consumer Affairs, dealing with the Arts Council, whether or not there has not already been appointment of a certain person as chairman of that Commission? He is nodding his head, so I assume

(MR. CHERNIACK cont'd) . . . there was. Is it not also true that he has resigned?

HON. J. B. Carroll (Minister of Consumer and Corporate Affairs) (The Pas): Mr. Speaker, I would like to say that there has been a chairman appointed. There was some discussion at one time of him tendering his resignation. That's been reconsidered; he is now prepared to act as chairman of the council. We are now in the process of establishing the balance of his council and hopefully they will be at work shortly.

MR. SPEAKER: The Honourable Member for Elmwood.

MR. RUSSELL DOERN (Elmwood): Mr. Speaker, I would like to direct a question to the Minister of Finance. Since certain Hydro officials received a cool or hostile reception in Churchill the other day, according to press reports, I would like to know whether the government has either required the Manitoba Hydro officials or approved of the Manitoba Hydro officials going throughout the north on a general program to explain or defend the Nelson River development.

MR. EVANS: Mr. Speaker, I am not aware of the Hydro officials having taken any trips to the north nor of the character of their reception anywhere, nor have I required them to go anywhere at any time.

MR. DOERN: A supplementary question. Is the government itself undertaking a program to explain to the people of the north what is happening in the flooding of Southern Indian Lake and other effects of the Nelson River development?

MR. EVANS: Well the affairs of the Hydro Board are conducted by the Board, or whatever the official title of the Board is, and they are conducting their own affairs. I have no power to require them to do anything. Whatever they are doing is not under my responsibility.

MR. DOERN: . . . clarification. Are you speaking of the Board, Sir? I was speaking of the government. Is the government undertaking a program to explain its policies in the north?

MR. EVANS: Well, I assume that there will be ample opportunity to find out about what the government is doing when the matter is debated in the House. I have simply indicated that under my responsibility, and not as Minister of Finance - I suppose it's Minister of Public Utilities with which I am supposed to be dealing - but there is no program initiated under my authority for explaining anything in the north by means of the officials of the Hydro Electric Board or of the Manitoba Hydro.

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

MR. ELMAN GUTTORMSON (St. George): Mr. Speaker, I would like to direct a question to the Minister of Government Services. Has the government adopted a policy whereby in some cases they do not open tenders publicly when they close?

HON. THELMA FORBES (Minister of Government Services) (Cypress): No, Mr. Speaker, not to my knowledge, but if the honourable member has any specific tender in mind, I would be glad to look into it for him.

MR. GUTTORMSON: Mr. Speaker, on the 23rd of December tenders closed for 16 mobile homes for Thompson, and when some of the people arrived for the opening of the tenders they were not allowed to see them. They were opened up in private, or not in their presence, and I regret to say to the House that this has created an air of suspicion. I think to eliminate this that the government should take immediate steps to open these tenders in the presence of those who submit tenders, or publicly, so that this would prevent this taking place.

MR. SPEAKER: The Honourable Member for Assiniboia.

MR. STEVE PATRICK (Assiniboia): Mr. Speaker, I wish to direct a question to the Minister of Transportation. In view of the many complaints that we receive from people because of the skidoos operating in very restricted areas, and the noise, is the Minister going to bring down some legislation governing the operation of skidoos or snowmobiles?

HON. STEWART E. McLEAN, Q. C. (Minister of Transportation) (Dauphin): Mr. Speaker, I haven't heard of the complaints mentioned. The matter of legislation is under consideration.

MR. SPEAKER: The Honourable Member for Hamiota.

MR. EARL DAWSON (Hamiota): Mr. Speaker, my question is directed to the Minister of Industry and Commerce. I would like to ask what he meant when he stated to the young Conservative Convention that our municipal governments are run by incompetent people?

MR. SPEAKER: Order please. The Honourable Member for Elmwood.

MR. DOERN: Mr. Speaker, I would like to direct a question to - I think it's the Minister of Municipal Affairs - regarding the Centennial Commission. Are there any plans to include a member of the Indian-Metis community on the general board of directors or the governing

(MR. DOERN cont'd)... body of the Centennial Commission in view of the 1970 celebrations?

HON. OBIE BAIZLEY (Minister of Municipal Affairs) (Osborne): Mr. Speaker, this is under consideration. I have one little problem in that the 30 man board is complete at the present time, and when the necessary vacancy is there, why members of both the Indian Brotherhood and the Metis Federation will be appointed. In the meantime, we expect to have members there ex officio.

MR. SPEAKER: The Honourable Member for Rhineland.

MR. FROESE: Mr. Speaker, I would like to address a question to the Honourable the Minister of Agriculture. Will the annual report of the Manitoba Vegetable Marketing Commission be tabled or made available to members? I understand grants are being made to this organization.

MR. WATT: Oh, I expect it will, but I'll take the question as notice.

MR. FROESE: Mr. Speaker, a further question that I'd like to address to the Honourable the Minister of Education. When can we expect the report of the University Grants Commission?

MR. CRAIK: These will be filed in due course with the other education reports.

MR. DAWSON: Mr. Speaker, I realize now that the Minister doesn't have to answer my question. I can re-phrase it. Is it true that you made this statement?

MR. LYON: of order. My honourable friend there is a rule that is honoured more in the breach than in the observance in this House, I realize, and that is framing questions on the basis of newspaper reports, some of which are accurate and many of which are inaccurate and so on. It's a wasteful occupation for the House, and if my honourable friend has any old business that he wishes to bring up, he can encounter somebody in the hall and write a letter or do something, but I don't think that the time of the House - and I'm backed up in this by the rules - I don't think, with respect, Sir, that the time of the House should be taken up in asking trivial questions.

MR. DAWSON: I don't believe it's a trivial question, Mr. Speaker. Can I read the statement to him where he is quoted in the newspaper?

MR. SPEAKER: Order please. I appreciate the opinions of the honourable gentleman. It is my endeavour to give as much latitude as possible and I would hope that in the future that that will not be taken advantage of in the interests of the business of the province going ahead in the orderly manner. I say that in all sincerity and I ask your co-operation on all sides of the House.

MR. SPEAKER: The Honourable Member for Emerson.

MR. JOHN P. TANCHAK (Emerson): Mr. Speaker, I would like to ask a question, and I believe I could direct it to the Honourable Minister of Mines and Natural Resources or the former Minister of Agriculture. I just don't know where it stands. It's dealing with the flooding of the Red River valley that is being forecast for 1969. The farmers in that area are concerned and I'm getting calls. They want to know what the government has in store for them and I would like to know from the government what special treatment is the Manitoba government considering for these people as far as protection of livestock, movement of grain out of the threatened area, and the general well-being of the people who may be affected by the flood. This is urgent. I wonder if the government is prepared at this time to elaborate on the plan?

MR. ENNS: Mr. Speaker, I believe I answered that question, in part at any rate, to the question by the Honourable Member for Rhineland. I will be announcing very shortly the steps the government is taking. Organizational meetings are presently under way with respect to our preparedness in the event of a flood. I would like to remind the members that it is still very much a situation of what the weather will be in the spring time and I would rather not take an alarmist's point of view at this stage of the game. It is true that in all likelihood we can expect flood waters. The government is working together with our Emergency Measures Organization to come up with the kind of prepared program to deal with it as effectively as we can. My colleague the Minister of Agriculture is involved in this more so than I am from the point of view of specific aid to farmers and we will be reporting to the House very shortly on this.

MR. WATT: Mr. Speaker, I might add that I hadn't time to inform my colleague the Minister of Mines and Natural Resources that a meeting is being held in my office on Thursday morning with the grain people and all people involved in the problem to discuss the plight of the farmers in the Red River Valley in case of flood.

MR. TANCHAK: A subsequent question. Some of the council in my area have heard of that meeting and they wondered whether they would be notified and are they welcome to attend that meeting -- councils of municipalities? They haven't heard so far.

MR. WATT: They are aware of the meeting though.

MR. ENNS: Mr. Speaker, I believe we have to be given an opportunity to bring our own forces together before we take in the public.

MR. SPEAKER: Orders of the Day. Adjourned debate. . . .

MR. LYON: Mr. Speaker, before we move the Orders of the Day, I believe that there is general agreement on all sides of the House that notwithstanding the fact that this is Private Members Day, that there would be unanimous consent to moving at this point to the adjourned debate on the reply to the Speech from the Throne which stands adjourned in the name of the Honourable Leader of the New Democratic Party, and that subsequently after he has made his contribution, unless others wish to speak, that we would not revert to private members' business. I think that's the understanding.

. . . . continued on next page

March 4, 1969

MR. SPEAKER: Adjourned debate. The proposed motion of the Honourable Member for Rock Lake and the proposed motion of the Honourable the Leader of the Opposition in amendment thereto. The Honourable Leader of the New Democratic Party.

MR. RUSSELL PAULLEY (Leader of the New Democratic Party)(Radisson): Mr. Speaker, may I first of all express my appreciation to the members of the House who have private members' resolutions with which they wish to deal, for their courtesy in postponing them, at least for the time being. I also trust and hope that the young lady who was representing sweetness in Manitoba as the present Honey Queen has not become a little disillusioned with the process of democracy in listening to the happenings thus far in the House. I note that she left us and I wish her the very best when she goes down east.

I think, Mr. Speaker, that I can follow tradition and extend to you our felicitations and best wishes, and trust and hope that you do not have to use your firm powers too often during this Assembly. I also want to congratulate the Honourable Member for Souris-Lansdowne in being promoted to the chairman of committees and Deputy Speaker. It could well be that he will have to become more silent than he was in the past.

I also would like to commend the mover and the seconder of the Speech from the Throne for their contribution. I noted with a great deal of interest that both of the honourable gentlemen, at least to me, indicated the attitude of the government to Medicare in their brief comments, and that attitude is that they had to be reluctantly dragged into something for the benefit of Manitoba and particularly insofar as Medicare is concerned.

I would be remiss I think Mr. Speaker, if I did not say a kind word or two of the Honourable Leader of the Opposition who is about to vacate his position as Leader of the Opposition. I have had the honour of being in the House with the Honourable Member for Ste. Rose since 1954. I recognize the valuable contribution that he has made to this Assembly and to Manitoba while not agreeing with most of his contributions in the House.

I also welcome the honourable new Minister of Agriculture. I trust, in his short tenure in office, that he may find some fulfilment in his desires.

Also, I suppose Mr. Speaker, it is one of my duties to make some reflections on the four past by-elections, so I'll pass them up at the present time and come back to them later.

I note that in the Speech from the Throne, the very first paragraph, mention is made of the reorganization of Cabinet. Being on the mailing list for the Department of Industry & Commerce or the Provincial Secretary, I'm not sure which, I'm happy to receive the various bulletins that emanate from the Department of Propaganda and I read with a considerable degree of interest the bulletins of September 25th issued by the Honourable the First Minister explaining the reorganization of the Cabinet. I suppose it's proper for us to more or less refer to them in their new names or by position, although I understand legislation will have to be enacted or amended to make provision for the change of names. It seems to me, Mr. Speaker, that it's just a re-shuffle of, practically speaking, the same old gang. Nothing new has been added except I must refer to the establishment of two committees. It seems to me that one of the committees is going to have considerable influence on the destiny of Manitoba, and that is the Committee on Planning and Priority, and as I look at the personnel contained within that committee, of all of the reactionaries that there are opposite in the front benches, the most reactionary in my opinion become members of this most important Planning and Priority Committee. And I think as we gather the thoughts in the Throne Speech and really study them and analyse them, one can come to the opinion that the reactionary elements in Cabinet surely have taken over the direction of the government firmly - and I will be saying a little more of that later as well.

I'm sorry he is not in his seat at the present time, but I wanted to express my sympathy to the Honourable Minister of Health, Welfare and Social Services. Do you - no, I don't think you would recall, Mr. Speaker, I don't think you were here at the time when the Conservative Government first took over in 1958 and '59. We had at that time a Ministry of Health and Welfare, and the problems in Health and Welfare became so onerous on an individual that that government decided to relieve the individual concerned of the responsibility of looking after both the fields of Health and Welfare. Lo and behold, in the reorganization of the efficiency of government, we find that in that reorganization the very gentleman who had the Ministry of Health and Welfare which was divided, is now back in the job, not only has he the responsibilities that he formerly had as Minister of Health and Welfare, added to that will be the new Medicare plan starting on April 1st, but, in addition to that, he has relieved the Honourable

(MR. PAULLEY cont'd.) the Attorney-General of an important factor dealing with Corrections. I wanted you to understand, Mr. Speaker and members, I've no objection to the field of corrections being removed from the Attorney-General's Department. In my opinion it should never have been there insofar as juvenile delinquents and rehabilitation are concerned. The move is a good one. But not only that; my honourable friend the Minister of Health and Welfare not only has the field of corrections, but relieves the Minister of Municipal Affairs from housing, urban redevelopment.

You know, I think if this planning and reorganization had have gone through to its logical conclusion, the people of Manitoba may have been saved hundreds of thousands of dollars by placing the full responsibility for the operation of government in the hands of the Honourable Member for Gimli and maybe we would have been better served.

I want to make a few comments generally in respect to the Throne Speech. In these general comments, I will skip many of the items contained in the Throne Speech; others I will refer to as I go along.

There is a provision in the Throne Speech for a provincial-municipal Finance Structure Committee. If this government carries on in this field as it has in the past, I greatly feel this will just simply be more window dressing. Surely to goodness, Mr. Speaker, we've got more reports, or sufficient reports, dealing with the important matter of provincial-municipal relationships in Manitoba, that if this government had the will and the desire to bring about a re-assessment and a re-alignment of the problems in the municipalities, they could have done it before. And I suggest that my friends opposite will just simply be carrying on more window dressing which is so typical of the Conservative Party of this province.

In the field of education we note that this government is saying, in effect, to the school trustees of the Province of Manitoba, "You're incapable of carrying on the conduct of directing the schools financially-wise in this province", and it seems to me that everywhere else in the field of education we hear constantly of the need of expansion in the field of education and we have this government here -- maybe this is due to the reactionary element on the Planning and Priorities Committee headed by the Minister of Education, or the Minister of Education being one of the prime components of that committee -- that we find in this area an indication of a cut-back in the very important field of education, and we will watch with great interest the government attitude to education when the Minister makes his statement insofar as what is meant by financial control in education. Does he mean that the school trustees in Manitoba, who have been praised in the past for their diligence and their efforts on behalf of their communities, will be relegated to simply looking after caretaking staff? I want him, in due course, to let us know what his attitude is.

Much will be said during this session respecting Medicare. I leave that for the time being.

In the field of mental health, we are pleased to note that some consideration will be given to the third phase of construction at Selkirk. I'd like to hear from the Minister of Health and Welfare what about the plans for the renovation of buildings in extension of facilities and services for our retardates and particularly our young retardates; expansion of St. Amant, expansion of services at Portage la Prairie. There is a very large waiting list at both places for admittance and, because of the overcrowding facilities at the present time and the need for new facilities, it looks to me we will have to wait for a considerable period of time for advancement.

I want to briefly refer, Mr. Speaker, to housing. I note in the Throne Speech the government makes reference to undertaking a new housing development in Manitoba. Mr. Speaker, I think it's almost a joke for this government to even take up space in the Throne Speech to refer to housing. It sounds very interesting; it sounds as though at long last something is going to be done in the field of housing of some substance. It says: "In cooperation" . . . that's the Throne Speech . . . says: "In cooperation with the federal government a program to provide housing in five remote and unorganized areas of Manitoba." Sounds fine, doesn't it? It looks as though at long last the citizens of Manitoba who have been deprived of adequate housing are now going to be taken care of in five remote areas. But what does it mean?

If one refers back to the propaganda bulletins of this government and use what they say, not what I say, as an indicator and expansion of the remarks in the Throne Speech, November 15th of last year, a news service bulletin said this: "The plan provides for Central Mortgage

(MR. PAULLEY Cont'd.) . . . Corporation to pay 75% of the capital required for the construction of up to 100 units over the next two years, 50 a year, in five or more remote areas in the Province of Manitoba." Over the next two years - which will mean no more than 10 houses if it's only applied to these five areas, when this government has been told constantly over the years, not only by direct representatives of the Indian and Metis Federation but every social welfare agency, by the Legasse Report which we got in 1959, of the need to get cracking and aid in these areas with some substantial help, and now we're pleased that His Honour said: "My Ministers are pleased to note the undertaking of a housing development for the Indian and the Metis, of 50 houses a year in five remote areas."

And what about the other areas? What about the area in Greater Winnipeg? January 31, 1969, the Honourable the Minister of Health and Social Welfare, Housing and Corrections, indicated the possibility of a plan for Greater Winnipeg area of another 100 houses, public houses, over a two-year period - 50 houses a year - to help out solve the problem in Greater Winnipeg. Is it any wonder that the task force on housing, in their report on Page 58, had this to say in respect of this very important matter of housing conditions, and I quote: "Indeed, some of the housing conditions witnessed by the task force in Metis areas around Winnipeg ranked with the very worst one could encounter anywhere in Canada." And this government now is going to attack that problem with 100 houses over the next two years, providing - and there's always an if and a but in the propositions of my honourable friends opposite - they can get a developer to come in with the land, providing the price is right. Is it any wonder the task force had that to say?

And this, Mr. Speaker, despite the fact that this government and all of us know of a recent housing study that indicated that about 32,000 units, dwelling units, were needed to replace substandard housing, and even in the hard core of blighted houses there are about 5,000 dwellings in Metropolitan Winnipeg that are in such bad condition that they should be removed and replaced. And what is the approach of this forward-looking government? One hundred spread over two years "if", "but" and "and". Yet my honourable friend, the First Minister, when he was down in Ottawa in the fall of 1967, or December, is alleged to have made the statement - and I am inclined to think that it was a correct one - that the problems of housing should be left to the rugged individual to solve.

Mr. Speaker, two years ago that was his attitude and he softened. He must have softened to even recognize it was 5,000 houses that should be disposed of here, and the benevolent of the Conservative Government administration in Manitoba will make provision for 50 possibly this year, possibly 50 next year. What a progressive look!

The question of labour legislation is mentioned in the Throne Speech. We'll have more to say during the session on that, as indeed we will be dealing with the question of South Indian Lake and the development there and in Northern Manitoba, and I want to repeat my request to my friend the First Minister not to proceed with any legislation dealing with the north until the north is represented in this House. My honourable friend the Minister for Consumer Affairs got a little bit of mention in the Throne Speech, that it's going to be set up, there's going to be a Bureau set up. Heaven's to Betsy, we've been fighting for this for years and we wait in great anticipation to see what the Honourable Member for The Pas is going to have to say in respect of Consumer Affairs.

My honourable friend the First Minister was at a constitutional conference a little while ago, and I intend to spend a few moments on that a little later. I do want to make one observation, however, that my honourable friend the Member for Elmwood proposed a resolution in this House a year ago asking for a committee to be set up so that we might have public participation in the desire and the attitude of Manitobans in respect of constitutional procedures and representations. At that time, my honourable friend the First Minister and his colleagues, the whole caboodle of them on the other side of the House, said "Nothing doing; we don't want any public participation. We'll make the decisions without representation of the public." And lo and behold, maybe my friend the First Minister is progressing slightly, because he has now become an author of what might be one of Manitoba's best sellers, dealing with the Constitution, and he's offering now, -- (Interjection) -- Oh, for free, too, and "if you want extra copies, phone my secretary." All at public expense, certainly. "Phone my secretary and you'll get more." And what is the So that the public can be informed, and "Please, dear public of Manitoba, if you have any comment to make, send it in to us and we'll consider it." One year after rejecting a proposition whereby the people could come to us and

(MR. PAULLEY cont'd.) give us the advantage of their wisdom. Oh, yes, in that I suppose he can turn around and say that he was supported by the Liberal Party of Manitoba, and of course I need not go any further as to the reasons for that support.

But, Mr. Speaker, it's customary, following a general election, to compliment the winner or winners on their victory, and while we didn't have a general election this year, it is true nonetheless that we had a mini-general election in Manitoba in that four different areas had an opportunity of expressing their confidence or otherwise in this government, and the Premier must be happy that the government won three of the four seats at stake. In the fourth one, both Liberal and Conservative were well out of the picture and were swamped at the polls by those who, in essence, said, "A plague on both of your houses." New Democrats naturally are pleased that Mr. Joe Borowski headed the polls, and unless there's an upset in the tabulations, Joe will legitimately enter into this Assembly and carry on his protest for the North - and I trust more effectively than the protesters from the North in the past. And I want to say we look forward to having a true representative of the North in this House, because the rejection of both the Liberal and the Conservative in the North vindicated the stand that we have taken in the past, and despite more than a dozen news items going to the North during the election, this House has not had either under a Liberal or a Conservative Government a government who has really been concerned with the plight of the North. And I include in that the two present representatives from North of the '53.

But I think that a considerable degree of the support given to the First Minister was because of the widespread coverage he obtained during the recent federal-provincial conference at Ottawa. -- (Interjection) -- No, there wasn't any excuses for the widespread coverage and I'll come to the reasons why I don't think it was justified. One, to be fair, must compliment the First Minister in having at long last come out of his cocoon, or his shell, and present an image to the citizens of Manitoba, and on that point of "image", Mr. First Minister, sincere congratulations. I not only wish that I could share some of the satisfaction he has exhibited after the results of the conference, but I'm afraid I cannot because I am convinced from reading press releases and other reports from that conference that, insofar as any real progress being made respecting federal-provincial relationships, the conference was far from successful. If the First Minister and representatives of the front benches in the government feel that the referral of very important matters to another group of committees represents success for our province, I share not in that opinion. It is our personal assessment, to use the phrase of the former Prime Minister of Canada the Right Honourable John Diefenbaker, to quote him while he was here campaigning in Wolseley, that "in terms of achievement," he said, "the Constitutional Conference was a flop." And I have not often agreed with the former Right Honourable Prime Minister. In this I think that he was right.

As far as the overburdened taxpayer in Manitoba is concerned, his lot is no better now than it was prior to the conference. I'm sure that the agricultural industry in Manitoba and Western Canada will be dismayed at the lack of any endeavour by the premiers of Western Canada to raise the question of the plight of agriculture at the conference. I know my honourable friend the First Minister has stated, and will possibly say again, the purpose of the conference was not to discuss agriculture. I remind him that one of the subjects discussed at the conference was the lack of resources we have here in Manitoba to meet the tax bill we have to pay if we are to advance. I wonder when this government will realize that Manitoba is a total community, that every section of rural Manitoba is a part of every urban area in Manitoba, and that the concern of one is the concern of the other. The days of divide and conquer in Manitoba between rural and urban Manitobans, I suggest, has gone and I feel that the First Minister let us all down by not having a discussion during the conference on the problem and the plight of agriculture. So I say, Mr. Speaker, that while on the surface the image portrayed by the First Minister at Ottawa recently did materially aid him in the by-election, when Manitobans quietly sit back and assess the results of the conference they will come to a different conclusion.

What of the Liberals in Manitoba? What of the Liberals in Manitoba? When we consider the results of the recent four by-elections, one must feel for the position of the Leader of the Liberal Party. I doubt very much whether many of us will grieve the fact that no Liberal was elected in the by-election, but one must sympathize with the Leader of the Liberal Party because he didn't have a chance of victory from the start of his campaign. The honourable gentleman had something going against him all the way through, and while he tried to push it

(MR. PAULLEY Cont'd.) aside he could not and did not. I refer to the ever-growing realization, not only here in Manitoba and Western Canada but indeed, I believe now, throughout Canada, the federal Liberal victory at the polls last June is becoming less meaningful as the days go by. I think that the voters of Manitoba realize now that the catch phrase of "just society" in Canada does not apply in Western Canada in the eyes of Ottawa Liberals. The Honourable the Leader of the Opposition had too many policies of Ottawa Liberals to fight against, and while he tried as hard as he could to divorce Manitoba Liberals from the federal Liberals, the voters would not swallow his appeal. And what is the sorry record of the Liberals at Ottawa insofar as Manitoba is concerned? A prime minister who shrugs his shoulders and says that the sale of wheat in the problem of the farmer instead of the problem of his government or himself. A prime minister aided and abetted by Manitoba's Minister who represented the Minister without portfolio in the federal Cabinet giving the kiss of death to the overhaul base of Air Canada in the Greater Winnipeg area. There is some speculation that the air industry might expand in Manitoba. We'll wait and see, and I suggest that this expansion would have taken place in any case, even if Air Canada had been retained here and its overhaul base.

The Liberal Leader in Manitoba had to fight a government which cut out the winter works program jointly with the municipalities and the province that formerly encouraged the construction industry to operate to a greater capacity in the winter time and thus providing more employment for Manitobans. The fact that unemployment is on the increase both here and across Canada is a reflection on the government of Canada's decision in this field.

My honourable friend the Leader of the Liberal Party had to fight against the injustice of the social development tax of 2% with its ceiling of \$120.00, which helped in essence those that had at the expense of those who had not. This is the type of a just society being enacted on behalf of Canadians, and in particular Manitobans and Western Canadians, by the Liberal administration at Ottawa.

The Liberal Leader of Manitoba had to fight against the decision of the Federal authority in respect to the postal rate increases which will deprive many small organizations and churches and others from being able to carry on due to the excessive cost of distribution.

My friend had to face the electorate with the decision of the federal administration to get out a shared cost program in the field of health and hospital construction within a short period of time. Among these programs is that of Medicare, which we are now entering into by a reluctant government here in Manitoba. The Liberal leader in Manitoba had to fight a battle despite the inept and regressive policies of the Hellyer Task Force on Housing. One could go on and on listing the handicaps that the Leader of the Liberal Party in Manitoba had to face and fight during these recent by-elections. He tried desperately to have federal Liberal policies in federal matters left out of the election, without avail. In June of last year my honourable friend and the provincial Liberals were pleased to join in the crusade of the now known as kissing First Minister, the Prime Minister of Canada. My honourable friend the Leader of the Liberal Party must accept the verdict that while provincial issues may have defeated some Conservatives last June, Ottawa contributed to the defeat of the Liberals here in Manitoba on February 20th. Enough of the Liberals.

What about those that are sitting to your right, Mr. Speaker, to turn to to this government and what I consider the prevailing situation here now, and I must confess, Mr. Speaker, that I am rather hesitant to say anything at all about Manitoba and to criticise the government lest I run into the admonitions of my honourable friend the Minister of Industry. I noted last September my honourable friend, while he was speaking to the American Society for Metals, stated that politicians who criticise the economic progress of Manitoba to benefit their own political ends are irresponsible and doing a disservice to the province. Only the government is correct and if anybody is doing a disservice, Mr. Speaker, to this province of ours, they are. Then he went on to say, "Please don't misunderstand me. This is not a police state where criticism cannot be tolerated, but we all have a responsibility to this province where we make our life and do all we can to help." I would suggest to my honourable friend that if he spends more time in politics he will soon come to the realization that politicians, even while advancing their own political opinions, do not endeavour to tear down their particular province or jurisdiction. I want him to know that when he says just because we criticise we are doing a disservice to the province, he should first look within his own cupboard and return as a starter the full authority to the Manitoba Economic Consultative Board to assess where we are

(MR. PAULLEY cont'd.) going in order that we may have a true picture of the state of Manitoba's economy.

You know Mr. Speaker, some few years ago there was set up a body in Manitoba known as Manitoba's Economic Consultative Board.

MR. JOHNSON: It did a great job.

MR. PAULLEY: It did a tremendous job, Mr. Speaker. I agree with my honourable friend the Minister of Health and Welfare when he says it did a great job. It did such a darn good job that the government opposite cut its wings. When we received, I believe it was the third report from that board, it told us the direction that this province should take. It made certain recommendations some of which was critical of the government opposite. Yes, practically all of it. And as my honourable friend the Minister of Health and Welfare says, it did a swell job; and how are they repaid? By Order-in-Council, which was discussed here a year ago, the ground rules were all changed. No longer do we want to hear from you any independent opinion of the direction of the economy. I should have added, I suppose, because they were stepping on the toes of the Honourable the Minister of Industry and Commerce, and they were revealing a lot of the balderdash that we'd been accustomed to receiving from the government opposite. So they said, "Now look. Just change your ways and bring in some report of a statistical nature but don't dare tell us where we are making our mistakes because it will become public knowledge." But this year, Mr. Speaker, what has that forward-looking government that the Honourable the Minister of Health and Welfare just said in respect of the Economic Consultative Board doing a good job, what have they done this year? They've cut it out completely and referred the job formerly carried on by the Manitoba Economic Consultative Board to a Cabinet council committee. -- (Interjection) -- A good one? That government is afraid of any criticism. The Honourable the Minister of Industry and Commerce says so. He is afraid of it from without and they were getting some of it from within so they, practically speaking, abolished that avenue of criticism, and I wonder whether or not they might endeavour before too long to abolish even criticism of opposition; in many respects they have attempted to do this, as illustrated by the contribution of my honourable friend the Member for St. John's this afternoon in respect of the activity of special committees of the House.

So here we are; here we are, a government who became disillusioned with one of their board's telling the truth of the outlook of the economy in Manitoba, cutting their wings and now telling them: we need you no longer. And what is our position here in Manitoba? If my honourable friend the Minister of Industry and Commerce says it appears we are doing our province a disservice by prodding an inquiry, let him and his department turn their efforts away from the tripe we are now receiving and give us the facts as to what is happening in Manitoba. You read from time to time what is happening in Manitoba, what the future holds. In each and every case, it seems to me these reports, particularly those of the front bench opposite, are so colored we don't get a proper story of what is happening. When the Minister of Finance went to Ottawa in November of 1968, press reports indicate that he had said the future was bright for Manitoba in 1969. In another release, in another paper, just at that particular time, my friend said the gloom in Manitoba was lifting. I wonder if my honourable friend would go back and read what the Honourable the Minister of Industry and Commerce had to say a year ago in respect of gloom in Manitoba. There was no gloom to lift. I think I could almost quote my honourable friend the Minister of Industry at that particular time.

But what did the Minister of Finance say in respect of the lifting of the gloom? And here are some of the quotes from his report. "Housing remains unsatisfactory with very low vacancy rates." The approach of this government - 50 houses, possibly. He goes on to say agriculture suffered the most severe setbacks this year due to unfavorable markets, low foreign sales, bad weather and strikes. Was there any discussion of this at Ottawa conference? Again I say no. He further went on in his report. "Net farm incomes will be well below those of last year." Dealing with this very important area of manufacturing, what did my honourable friend the Minister of Finance have to say? "Manufacturing in Manitoba is showing signs of levelling off, with employment at fairly static levels" An expanding community, Mr. First Minister; an expanding province with employment at a static level? My honourable friend went on in his report and said, "Unemployment rates are above the 1960 levels due to large increases in the labour force." Static employment; increasing numbers. What is the net result? My honourable friend gave us the answer in his statement. He said unemployment is expected to rise a full percentage point above last year's level. A progressive forward

(MR. PAULLEY cont'd.) looking approach of a government? I think not. Is this a bright forecast for Manitoba for this year? Is it any solace, Mr. Speaker, to our university students, who couldn't find jobs last summer because of the unemployment situation, and who rely on summer jobs to put them through University, to know that a responsible Minister of the Crown says that there will be increased unemployment this summer. And in spite of all this, it appears, if news reports are correct, that the Honourable the Minister of Education is going to allow increases in university fees. With more and more of our students being unable to find jobs to go through university and post-secondary training, more unemployment, more cost to the individual. Is this a progressive government that we have here in Manitoba? I suggest not.

Recently my honourable friend the Minister of Industry and Commerce made an announcement of a new \$10 million plant to locate at The Pas. Sounds good. We need industries in Manitoba and we need them very badly and our efforts are all directed toward obtaining them. But I trust that this \$10 million plant referred to recently by my friend the Minister of Industry and Commerce is not another one who is going to demand huge tax concessions at the cost of the municipality. I ask my honourable friend the Minister of Municipal Affairs and Northern Development what additional tax concessions will be necessary for The Pas to give to the proposed \$7 million saw mill which indicates that they may locate in that area providing they are granted tax concessions. How long is the government led by you, Mr. First Minister, going to continue forcing municipalities into a position of having to grant tax concessions to industry at the expense of the local taxpayer?

I ask the Minister of Industry and Commerce and the Minister of Municipal Affairs, do they support the contentions of some of the speakers who have been touring the province who urge towns to use tax concessions as a bait for industry. Has not this government any policy whereby our rural areas can obtain industry without competition by the way of tax concessions? Surely this government should tell all concerned that our citizens in rural Manitoba should receive comparable wages with those in the urban areas. Surely this government knows in many instances due to the change from an agriculture to an industrial complex, many rural areas are giving concessions to industry to the detriment of the people in their own areas. A news report on September 19, indicates that a speaker who spoke at Morden had this to say: "That parity of minimum wages between rural and urban wages has damaged rural markets by reducing the attractiveness of rural industrial incentives." What a tragedy. That our rural cousins are faced into this position by a government who doesn't really know what its function is. And I say, are not our rural cousins equally worthy of their hire to the same degree as the urban areas? I ask the Minister of Labour, is he satisfied with this type of an approach or are we eventually going to hear from him as the labour spokesman of the government of a return to two or three levels of wages insofar as minimum wages are concerned? I ask the Minister of Labour is he satisfied that the City of Winnipeg placed 48th in the income survey of all cities in Canada insofar as average income is concerned. Is this an indication -- Winnipeg, 48 out of 88 cities -- is this an indication of a progressive Manitoba? Not only were we 48th in that income survey but a recent survey of the Bureau of Statistics indicated as far as the larger cities were concerned, the cost of living on average was higher here in Winnipeg than anywhere else in Western Canada. Is the Minister of Labour or the Minister of Consumer Affairs satisfied with this? And should not those of us in opposition run the risk of criticism and admonitions of the Minister of Industry in order to bring these valid points to the fore?

Is the Minister of Finance, First Minister, the Minister of Industry and Commerce and others, satisfied with the number of firms who have moved outside of Manitoba because of the climate here? I don't think they are. Is the Minister of Mines and Natural Resources satisfied with the close down of San Antonio Mines at Bissett and the loss of a huge community? Is he satisfied with this, without adequate protection either, for the employees in that mining community? Is the Minister of Public Utilities satisfied with the possible effects of the hydro development in South Indian Lake, or has he an alternative -- and I must confess I wrote this before the Throne Speech and apparently he has no alternative. Is the Minister of Education satisfied - and I ask him again - with the increase, apparent increase in the fees at university? And what is he going to do about it? Is the Minister of Health and Social Services satisfied with the announced curtailment of the original plans for the development of our hospitals and the expansion of our hospitals and the curtailment of grants to our hospitals?

MR. JOHNSON: That's a federal policy.

MR. PAULLEY: It's a federal policy because of the ineptitude of the federal authority aided and abetted by a silent provincial government in Manitoba. If you had what you claim to have, the vigorous spirit of a progressive jet age government, Ottawa would not dare to curtail its program.

MR. JOHNSON: That's a new one.

MR. PAULLEY: It is a good one and I'm glad you asked the question so that I might have replied to you because I didn't make note of that and I hope to hear you again.

Is the First Minister and all of the front bench satisfied with the ever-increasing tax load on the local taxpayer? The answers contained in the Throne Speech just simply aren't acceptable.

I say to them, get up, get moving and get cracking. I say to them, accept the criticisms that they have earned and they deserve. I completely reject the position taken by the Minister of Industry and Commerce that we should simply put on our rose coloured glasses so that Manitoba will look well. One Manitoba news reporter, industrial reporter, recently in a full page had a heading on a column or a number of columns across his page saying that Manitoba was a great place to be from. -- (Interjection) -- My friend agrees that it is a good place to be from and he's one of those that have made it a fact, that it is a good place to be from. Only the context this is taken in is different than yours. Under proper direction, which it is not getting at the present time, I suggest that Manitoba should be a great place to be in, not from, and I suggest that you consider the following as a plan to achieve the desired advancement.

It seems to me in this day of rapid change in society we must take a good look at the way we have been doing things. Much of our energy in the past has been devoted to doing things piecemeal, a sort of a patchwork quilt effort, with a new patch on an old garment here and another one there. This has been the methodology of past governments here in Manitoba and should change. The old system of patching the economy up is just not working. We must develop in Manitoba a new approach which places the needs of the people of our province to the foremost. In Manitoba the need is for change; not just for political change by party, but change in policy and direction. Statistics for Manitoba show that we have 25% of rural farm families who have an income of less than \$2,500. a year. About 48% of the rural non-farm families have an income of less than \$3,000. a year, and this is poverty amidst affluence. Unless we change the direction of the economy in Manitoba this will continue. In the area of social improvement, for example, in urban renewal the process is painfully slow. For instance, in the field of housing, high interest rates makes it impossible for young couples earning less than \$8,000.00 a year to obtain a house. High interest rates are having the effect of forcing people who come from lower income areas to seek accommodation in the central core areas of our cities. The result is not overcrowding in housing accommodation, but crowding in our schools which will increase overall tax burdens at local levels. Many of these children coming from the disadvantage areas are not able to obtain the same degree of academic performance as those that come from the better areas. We need a program of rural reconstruction to complement urban renewal programs that have only just begun to take shape.

There is no use in our talking about research and development until we are prepared to launch a co-ordinated program of urban renewal for our cities and rural reconstruction for our country places. What we require is a program that will co-ordinate the resources of this province for the benefit of all of the people in this province. One of the most important problems facing the metropolitan areas in Canada and Manitoba is that of financing education. This government, as other governments, seem to fail to face up to this problem, but really basic to social development is the requirement of ever-increasing educational opportunities for all of our citizens both young and old, both rural and urban, and unless we have expanded educational systems whereby our citizens have the opportunity for advancement, this province, I fear, will fail to grow.

What's to be done further about it? I refer to the Carter Commission on Taxation. We are often faced with the proposition, and the question, as to where the money is to come from. May I suggest to this government that it reverses its present stand in regard to the recommendations of the Carter Report on Taxation. The position taken by this government in opposition to the Carter Report recommendations is detrimental to Manitoba. I suggest that until, unless there is a complete revision of taxation in Canada, not patching up by

(MR. PAULLEY cont'd.) committees either locally or federally, I suggest that until there is a complete revision of taxation in Canada -- and I favour, by and large, those recommendations by the Carter Commission -- the poorer provinces in Canada will be less able to carry out their responsibilities to their citizens. Here in Manitoba those least able to pay will continue to pay unless this government takes leadership in demanding implementation of the recommendations of the Carter Commission.

It is appreciated that recently at Ottawa there was some adoption partially of some of the recommendations of Carter, and that is a starter, but I suggest this government should take the initiative with Ottawa in asking full consideration of the recommendations of the Carter Commission on behalf of the people of this Province and of Canada. The Manitoba Development Fund -- this government a few years ago enacted changes in legislation dealing with the Manitoba Development Fund to allow the direct participation by government in using the funds to develop industries deemed advisable and necessary. As far as I'm aware, to date this government has taken no steps to utilize the provisions in the legislation. I think that it is a travesty here in Manitoba with our huge natural resource wealth that we are still receiving relatively small returns. At the same time we allow the products of our mines and our forests to go outside of Manitoba to be processed in secondary industries and then we buy them back at added cost to the people. This government has the means, it has the legislation to set up secondary industries to utilize the products of our mines and our forests; and if the government isn't prepared to use the Development Fund in this way, I suggest to them that they should as a prerequisite to future development in our mining industry, have an understanding and an agreement with the developing corporations that part of their products should be utilized in developing secondary industry. And I suggest that while Manitoba may not have full control over the economy of the province there are certain areas in which it has. I suggest, at least for a starter, three things: 1. That all future economic development involving a high degree of monopolistic control, whether in the field of manufacturing, natural resources or distribution, take the form of public enterprise or co-operative enterprise or a partnership between government and private enterprise with the control resting with the government of Manitoba. 2. That the Manitoba Development Fund be used more fully to mobilize the savings of Canadians and Manitobans for the promotion of such projects. And 3. That the Government of Manitoba conduct a more extensive research information and planning program to assist Manitobans in the development of our economy. If my honourable friends opposite will consider these three items I'm sure Manitoba can get rolling again.

There is another area which I wish to touch on this afternoon which is of great concern, and that is the question of the rights of the individual within the province irrespective of racial, ethnical, religious or economic background. I think that the time has come for the establishment of an effective human rights commission. I recognize that we have legislation on the statute books calling for fair practices in employment, housing and public accommodation, but this legislation is not effective. It is not effective because it's shabbily drafted and is not being enforced. I suggest because of the fear of not having proper consideration given to their complaints many are failing in neglecting to complain. We have people moving into Manitoba from outside rural areas into urban areas who are being forced to live in unhealthy, substandard housing because this government has not drafted proper legislation -- and I doubt even if it did draft proper legislation that it has the will to enforce it. We have people in Manitoba being subjected to personal humiliation and abuse because this government failed to draft and enforce its legislation. We have well educated, qualified people who could make contributions to the wealth of this province unable to find employment and leave us because of the laxity by this government in the field of human rights. I know of a number of people because of their colour have left Manitoba to go to other climes because they have been turned down by their employees who would not hire them. It may be said that they did not complain. I say they did not complain because they knew that it would be no good to complain and I suggest that a human rights commission divorced from government is the only answer. I ask how much longer must the people of Manitoba be forced to endure such loss in human resources before we have a proper bill of rights and a human rights commission established in Manitoba. We have seen what has happened in other jurisdictions and to the south of us because of the trampling of the rights of the individuals because of their race and their colour. It is time Manitoba joined the very few other provinces in Canada in establishing a human rights commission.

Between April and December of last year in the Province of Ontario where they have a

(MR. PAULLEY cont'd.) human rights commission there were over 4,000 complaints registered by the commission. In my understanding here in Manitoba a mere handful. I suggest the reason for the lesser number here is because there is no place really for people to file complaints of discrimination. I suggest, Mr. Speaker, that this Legislature and this Government should create a viable human rights commission so that the forces of bigotry, prejudice and discrimination will be stopped in its tracks at the border of Manitoba. I call for the creation of such a commission so that all the people of Manitoba may be free and equal in dignity and rights without prejudice to race, creed and colour, nationality, ancestry or place of origin. Let us in Manitoba be sure we grant all of our citizens equality of opportunity to enjoy the good life which we hope to create here.

Much has been said, much more will be said, of the plight of the Indian and the Metis in our province; the Indian and the Metis in Metropolitan Winnipeg, the Indian and Metis at South Indian Lake, the Indian and Metis at Churchill at The Pas and other centers as well. But there are others as well apart from the Indian and Metis who are being discriminated against and need an avenue in which to lay their complaints and I suggest one of the major considerations for the members of this Assembly this year is the creation of a human rights commission, for people are people despite government. This province needs the cooperative efforts of all of our people if we are to advance into our next hundred years with confidence and with unity. Yes, Mr. Speaker, we can beat the drums and we can be "growing to beat '70" but unless we grow as a united people with equality for all and consideration for all we will fail. I suggest to all of the members of this House, let's get with it. Let's go in to the second century of our existence with confidence and in the firm knowledge that we respect the rights of people to a full life; and if we do that then we can make our centennial year one in which we can be proud and leave to our children and our children's children a heritage well worth having.

The other day, Mr. Speaker, the Honourable the Leader of the Official Opposition presented to this House an amendment to the Speech delivered by His Honour Thursday last. We in this group have considered the recommendations proposed by the honourable gentleman and find them acceptable. They point out nine areas in which, in their opinion, and we join them, the present Government of Manitoba has failed. And we want to assist them. We want to assist the government by proposing some items through which we think the well-being of Manitobans can be enhanced. We offer the following amendment to the amendment, Mr. Speaker, moved by myself, seconded by my colleague the Honourable Deputy Leader of our Party, Mr. Cherniack, the following: That the amendment be amended by adding after the word "operations" in the last line the following: And be it resolved that to strive toward the above general declarations and to bring about the well-being of Manitoba the Government should:

1. Institute a compulsory automobile insurance plan operated by the government.
2. Establish a ministry of urban affairs.
3. Establish a separate Department of Northern Affairs.
4. Insist on the continuation and extension of the cost sharing programs jointly with the Federal Government and Manitoba in the fields of health, education, housing, agriculture and economic development.
5. Establish a human rights commission.
6. Institute a capital gains tax and increase revenue from natural resource developments.
7. Finance health services such as hospitalization and medicare from general revenue instead of from the present regressive premium tax.
8. Be more vigorous in bringing pressure upon the Federal Government to solve the pressing problems of agriculture particularly respecting the damp grain situation and the loss of export sales.
9. Provide for the elimination of post-secondary tuition fees.

MR. SPEAKER presented the motion.

MR. SPEAKER: The Honourable Member for Rhineland.

MR. FROESE: Mr. Speaker, I beg to move, seconded by the Honourable Member for Inkster, that the debate be adjourned.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried.

MR. LYON: Mr. Speaker, I beg to move, seconded by the Honourable Provincial Treasurer that the House do now adjourn.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried and the House adjourned until 2:30 Wednesday afternoon.