

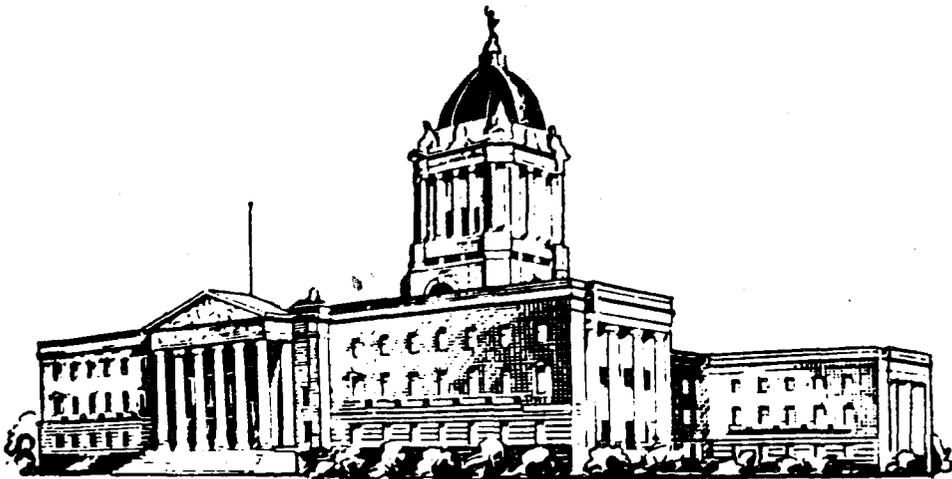


ISSN 0542-5492

First Session — Thirty-First Legislature  
of the  
**Legislative Assembly of Manitoba**  
**DEBATES**  
and  
**PROCEEDINGS**

26 Elizabeth II

*Published under the  
authority of  
The Honourable Harry E. Graham  
Speaker*



Vol. XXV No. 22B

8:00 p.m. Monday, December 12, 1977

**THE LEGISLATIVE ASSEMBLY of MANITOBA**  
Monday, December 12, 1977

**Time: 8:00 p.m.**

**PRESENTING REPORTS BY STANDING AND SPECIAL COMMITTEES**

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

**MR. J. WALLY McKENZIE:** I'd like to present the second report of the Committee on Law Amendments.

**MR. CLERK:** Your Committee met on Friday, December 9, 1977; Saturday, December 10, 1977; and Monday, December 12, 1977, to hear public representation on Bills before the Committee, as follows:

Bill (No. 5) - An Act to suspend The Family Maintenance Act and to defer the coming into force of The Marital Property Act and to amend certain other Acts and make Provisions as required as a Consequence thereof:

Alice Steinbart - Coalition on Family Law,  
Georgia Cordes - Y.W.C.A.,  
Murray Smith - Private Citizen,  
Mary Wallace-Awan - M.F.L. Equal Rights and Opportunity Committee,  
Muriel Smith - Private Citizen,  
Berenice Sisler - Manitoba Action Committee on the Status of Women,  
Mrs. Goodwin - Provincial Council of Women of Manitoba,  
Janet Paxton - Private Citizen,  
Laurie Mason - Parent Finders Inc., Winnipeg and Manitoba Chapter,  
Maxine Prystupa - Private Citizen,  
Evelyn Wyrzykowski - Catholic Women's League of Manitoba,  
Jill Oliver - N.D.P. Status of Women Committee,  
Donna Goodman - Manitoba Teachers Society,  
Arni Peltz - Legal Aid Lawyers Association,  
Vic Savino - Legal Aid Lawyers Association,  
Mary Jo Quarry - Private Citizen,  
Jean Carson - Private Citizen,  
John Fields - Private Citizen,  
Charles Lamont - Private Citizen,  
Susan Devine - Women and the Law,  
Marilyn McGonigal - Manitoba Action Committee on the Status of Women,  
Anne Jackson - Winnipeg Chapter, Canadian Congress of Women,  
Rosemary Turner - United Nations Association in Canada,  
Ruth Browne - Private Citizen,  
Win Loewen - Federal Advisory Commission, Status of Women,  
Leigh Halprin - Private Citizen,  
Esther Koulack - Women's Liberation and Women's Place.  
Bill (No. 6) - An Act to amend The Employment Standards Act (Overtime Rate of Wages):  
Gerry Fast - Canadian Association of Industrial, Mechanical and Allied Workers,  
Charles Lamont - Private Citizen.

Your Committee agreed that the name of Mr. EINARSON be substituted for that of Mr. FERGUSON on the list of names to comprise the Committee.

Your Committee considered the Bills:

(No. 5) - An Act to suspend The Family Maintenance Act and to defer the coming into force of The Marital Property Act and to amend certain other Acts and make Provisions required as a Consequence thereof,

(No. 8) - An Act to amend The Summary Convictions Act,  
And has agreed to report the same without amendment.

Your Committee has also considered Bill:

(No. 6) - An Act to amend The Employment Standards Act (Overtime Rate of Wages),  
And has agreed to report the same with certain amendments.

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

**MR. McKENZIE:** Mr. Speaker, I move, seconded by the Honourable Member for Rhineland, that the report of the committee be received.

**MOTION presented and carried.**

**CORRECTION — NEWSPAPER ARTICLE**

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

**MR. LAURENT L. DESJARDINS:** Mr. Speaker, I rise on a Point of Privilege and I'd like to — especially in view of the fact that this might be our last time together — I want to make a correction on an article in today's Free Press that is absolutely wrong and certainly misleading. I don't think it is permissible for me to ask questions of the Honourable Minister of Health at this time, so I'll refrain from it, but I'm talking about an article "Second Look at Agassiz Ski Site Taken".

The commitment of the province, the amount there is absolutely wrong. To say that it wasn't a commitment — it was a commitment and these people have spent money. And thirdly, to say that the ski organization and experts widely endorsed the La Riviere proposal is absolutely false. I received a call from the President of the Manitoba Ski Division today, and I have a letter also that I'm sure the minister has. I'm not faulting the minister; I don't know where the person that wrote this article got the information and therefore I'm not going to accuse the minister but this is absolutely wrong.

There was a survey made at the request of the Ski Division. Mr. John Ogilvie was the person they suggested and everybody agreed that Agassiz would be much better, and besides that there was a cost-share proposal and they were the only ones that were ready to spend any money at all.

So, if there is another day I intend to ask more questions, but now I'd like to make this. . . And I'd like to table that letter, if I may, Mr. Speaker, by leave.

**MR. SPEAKER:** I want to bring to the attention of all members that while I'm a servant of this Chamber, I feel that the business of this Chamber is very important business, and whether or not a person is quoted or misquoted in a newspaper I feel is of really no concern to this Chamber. And I feel that those that want to stand up in this Chamber and use the privileges of this Chamber to correct or to change a statement that was made in a newspaper could better use their time to correct it privately with the newspaper, rather than bring it into this Chamber.

However, I am just a servant of this House, and I will leave it up to the members of the Chamber to decide whether or not they want to use the time of the House to correct erroneous or misleading statements that appear in the newspapers.

### THIRD READINGS

#### BILL NO. 8 — AN ACT TO AMEND THE SUMMARY CONVICTIONS ACT

**MR. JORGENSON** presented Bill (No. 8), An Act to amend The Summary Convictions Act, for third reading.

**MOTION presented.**

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

**MR. SIDNEY GREEN:** Mr. Speaker, I'll try and be less than three minutes. We did, at committee, indicate a problem with this piece of legislation. We indicated that it gave the Attorney-General the power to convict somebody who has already been acquitted. He says he doesn't intend to do that, but the legislation gives him the power to do it. We think that's wrong. We also said that it gives the Attorney-General the power to have people convicted who might, if the law were not changed, be acquitted. We didn't think that it would hurt his legislation to make it operative today.

We brought these recommendations forth in all sincerity to prevent the Attorney-General from being misled by his own bureaucracy who would like to see things move smoothly, without considering the rights of the citizens involved. The Attorney-General has seen fit to be captured by the bureaucracy. We're merely telling him that that is what has happened.

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

**BILL No. 6** was read a third time and passed.

#### BILL NO. 5 — FAMILY LAW

**MR. JORGENSON** presented Bill (No. 5), An Act to suspend The Family Maintenance Act and to defer the coming into force of The Marital Property Act and to amend certain other Acts and make Provisions required as a Consequence thereof, for third reading.

**MOTION presented.**

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

**MR. PAWLEY:** Mr. Speaker, I hope to be able, in a few moments, to clearly indicate the position that we, as an opposition, take in connection with this very important piece of legislation.

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I don't believe I need repeat the developments which led to the passage of what has been described — not only in Manitoba, but elsewhere in Canada — as possibly the most progressive piece of family law legislation that exists anywhere in Canada.

June 17th, 1977, was an important night for, I believe, all members in this Legislature. And I do believe that members from both sides of this House had co-operated — worked closely together — in order to develop this legislation.

There is no question that on that evening of June 17th there were misgivings and, yes, there were votes in opposition to the legislation. And there was an indication from the opposition of that day that they had misgivings and that there would be, if they had opportunity, the need to cause a serious review of the legislation. That only differed in degree from the position which the government of that day took, to the extent that we had indicated that, yes, there would be need for review and there possibly would be need for amendments. That, too, was made very clear by the government of the day.

It was, therefore, with concern — concern that was felt by many in Manitoba — when announcement was made by the Attorney-General that a Board of Review had been established in order to clarify the legislation and to remove ambiguity. The Attorney-General, who was not present during the June debate, was obviously surprised at the reaction received by him to that announcement. And yet, unfortunately for the Attorney-General, he was not present during the proceedings which had taken place in June. He did not have the benefit of the briefs and presentations that were made to the committee in June and, thus, he did not have that assistance when it came to the appointment by him of members of his Review Board.

We have heard the dismay expressed by so many groups that support the family law legislation, in connection with the appointment for instance of Mr. Houston. I don't want to deal further with that except to say that in hindsight it was not a choice which was geared toward generating any confidence in the intentions of the government as to their intention.

Then, Mr. Speaker, as events unfolded and as opposition clearly developed, the government saw fit to add a third member to that committee, hoping that by so doing they would be able to soften some of the opposition. That has not happened.

Mr. Speaker, during the committee hearings, there were a number of disclosures to committee. One was the disclosure in committee that the Manitoba Bar Association, the subsection of the Manitoba Bar Association dealing with family law, had, by letter dated October 24th, 1977, in a letter to Graeme T. Haig, Q. C., who, it had been indicated was contacting the subsection on behalf of the Conservative Caucus and I gather there is some doubt as to whether that representation was correct on his part. But a letter was introduced to the committee, indicating that Mr. Haig was advised by the subsection — and we can only assume that that information in turn was conveyed to the government — that the subsection of the Manitoba Bar dealing with Family Law, consisting mainly of lawyers whose practice was Family Law, favoured the proceeding with both pieces of legislation — both The Marital Property Act on January 1st, and The Family Maintenance Act. I would like to read the words into the record; the letter reads "Firstly, with respect to The Marital Property Act, we are strongly of the view that this Act should proceed to come into force on January 1st, 1978, as planned and proclaimed." And then, further on in the same letter, they indicate it was essential that The Family Maintenance Act proceed to come into effect as planned for November 14th of 1977.

But interestingly in the letter, third paragraph of the letter, they acknowledge that substantial amendments should take place insofar as the legislation was concerned. But they indicated very clearly to the government caucus that if a session was to be held prior to the end of this year then amendments can be made and so much the better, they say. If not, then they should be made in the first session of 1978 and the government should announce the intended amendments well in advance of January 1st, so at least the profession has some idea of how to advise the clients.

Unfortunately, the profession, the public, no one in Manitoba to this day has any clear indication of the intentions of this government insofar as its designs in regard to the family law legislation in Manitoba.

Oh yes, we have an Information Services release dated November 10th. These Information Service release forms, Mr. Speaker, are initialed by the Attorney-General in this case; otherwise it would not have been released. And the Attorney-General emphasized in this release of November 10th that the intent and principle of "this significant legislation would remain the same. The review would deal with ways in which the uncertainty and ambiguity of the present Act could be eliminated" — uncertainty and ambiguity could be eliminated.

Then he further states, "The principle of equal sharing between marriage partners must be clearly maintained and protected. We want to ensure in our review that the way it is applied is clear, understandable and unequivocal."

And thus, Mr. Speaker, it has been generally gained in the minds of most Manitobans from that, that all the government had in mind were changes which would effect improvements in the wording, would be of a mainly technical or legal nature.

But, Mr. Speaker . . .

**MR. SPEAKER:** Order please. I want to remind the member that we are now at the hour of ten o'clock and unless we have the unanimous consent we cannot proceed.

**MR. JORGENSEN:** Mr. Speaker, I believe there is agreement that the House would sit for an extra two hours at the very minimum, and we'll make a decision at 12 o'clock as to whether we go beyond

that.

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

**MR. GREEN:** Mr. Speaker, the honourable member is correct, except the way he said it, which might get me into some trouble. We will sit until 12 o'clock, Mr. Speaker. If there is unanimous consent to sit thereafter we would, but we are willing to sit until 12 o'clock.

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

**MR. PAWLEY:** Mr. Speaker, in addition during the committee hearings, despite that which was said earlier by the Attorney-General in regard to confusion, questions raised by members of the legal profession, we received information as to positions taken by three legal bodies in the province of Manitoba.

First there is, of course, as I mentioned, the position taken by the subsection of the Manitoba Bar on Family Law urging that the legislation be proceeded with. Information was provided to us by a lawyer representing the Legal Aid Association of Manitoba urging that the legislation be proceeded with, as passed in June of this year. And also, Mr. Speaker, information was provided for us by another group called Women and the Law, mainly made up of women lawyers, also urging that the legislation be proceeded with.

Mr. Speaker, we're not aware of one group — one single group — of lawyers in this province who have met, who have discussed this legislation and have indicated their support for the present government's intentions to suspend or defer this legislation. But we have received clear and distinct advice from three groups involved in the legal profession in Manitoba that the legislation should be proceeded with.

And, Mr. Speaker, I do not think I would be exaggerating if I indicated to you that insofar as the members of the Legal Aid Association of Manitoba are concerned, and lawyers that belong to the subsection of the Manitoba Bar Association pertaining to Family Law, I'm sure would represent the vast bulk of the legal work which is done in connection with family law in Manitoba.

Now, Mr. Speaker, at the same time as this information was being provided to us, an indication by lawyers and legal groups in Manitoba that there weren't all the problems that were being spied out to us in connection with this legislation, we received many many briefs from those within the public who have always demonstrated interest and concern about the need for reform in Family Law. I would like to, for a moment, pay tribute to the hours of work and effort undertaken by so many men and women in advancing the concept of Family Law reform in the province.

We received indication, Mr. Speaker, that in one instance the representative of the Provincial Council of Women had felt so safe as a result of inquiries which she had made during the recent election campaign, inquiries which she had made to her MLA who she respected and who she did not disclose the name of in the committee, but who indicated that her MLA had approached the First Minister during the election campaign, and whose MLA had reported back to the lady who represented the Provincial Council of Women, that the family law legislation would go forward as had been passed in June; that the legislation would be permitted to come into existence on January 1st and she also advised the committee that she received information that the legislation would be monitored by the government after its enactment on January 1st.

**MR. DESJARDINS:** I wonder if the Attorney-General would permit a question just to make sure there's no misleading. You said that her MLA approached the First Minister. Did you mean the then Leader of the Opposition or the present Premier?

**MR. PAWLEY:** No, I'm sorry, the present Premier, the First Minister of this province.

Now, Mr. Speaker, when she was questioned in committee as to whether or not she felt that she had been misled, she thought for a moment — and Mr. Speaker, this lady is certainly no New Democrat — but when she was asked whether or not she had been misled she thought for a moment or two and she answered, "No, no, I felt I was deceived. I felt I was deceived."

Mr. Speaker, we are not satisfied that the Attorney-General nor has the government clearly indicated to us that they support the basic principles of the legislation despite all the sound, wonderful phrases pertaining to their belief in the concept of equal sharing.

On second reading we posed questions to the Attorney-General in connection with the joint sharing of family assets; with the very very limited discretion in the use of distributing commercial assets in the event of termination of marriage. We posed questions to the Attorney-General in connection with his position in regard to unilateral as against mutual opting out. We posed questions to the Attorney-General in regard to the fault being grounds within The Family Maintenance Act. Mr. Chairman, we still do not feel that we have received any clear indication from the government as to their intention despite the pleas by the Manitoba Bar Association, Family Law subsection on October 24th that the government ought to make its intentions known clearly and quickly so that the profession and the public would not be confused.

Here it is, Mr. Speaker, already well into December, we still don't know the intentions of the government except attempts to reassure us that the Board of Review is simply dealing with rewording. But we do not feel comfortable that it is only a question of rewording; that the Attorney-General and the government do not intend to proceed far beyond the area of rewording, beyond the

area of improving the clarity or removing ambiguity; but they do not intend to actually dismantle, emasculate these very fine principles of this legislation.

Mr. Speaker, it seemed to us as a result of the briefs that were presented to us in committee that the vast majority of those in Manitoba that have demonstrated an interest and a concern for family law in this province, whether it be the Manitoba Teachers' Society, whether it be the Social Workers, whether it be interested lawyers that are engaged in the practice of family law, whether it be various groups involved in women's organizations such as all those groups associated with the Coalition on Family Law, of the Provincial Council of Women, that the vast majority — yes, out of 28 briefs received, Mr. Speaker, all but two, all but two were in support of the Family Law legislation in Manitoba and against its suspension or deferral. And those two, Mr. Speaker, that opposed the Family Law legislation spoke not for groups or organizations, but only spoke on behalf of themselves. Mr. Speaker, I do not want to prolong this debate tonight except to indicate to the government that they will proceed, they have the votes, they will bring legislation back into this House; and the final determination of that legislation will rest within their hands. They will, Mr. Speaker, have to assume full responsibility for that legislation. But let them be aware, Mr. Speaker, that there are many many very concerned Manitobans that are watching and will be observing the legislation that they bring into this House; will be examining that legislation to ascertain whether or not there are substantial deviations from the very sound and basic and civilized principles of the Family Law legislation; will be watching as to whether or not this government has bended to the pressures that no doubt they are receiving from some groups within this province that wish particularly to widen the discretion pertaining to the distribution of commercial assets or wish to provide for unilateral opting out in place of mutual opting out.

Mr. Speaker, I hope and I trust — and I only do wish, Mr. Speaker, that my hopes would be realized — that the legislation that is brought back into this House will be an improvement as to clarity and meaning, and will enshrine those very decent and civilized principles that are within the existing Family Law Legislation. But, Mr. Speaker, I fear and I'll wait with keen interest to ascertain whether the legislation that is brought back into this House by the Attorney-General is as it has been represented or whether it will be legislation that although expressing belief in the principle of equal sharing will provide such loopholes, which will provide such escape routes, that the expression of equal sharing in the marriage relationship will be but a vacuum and will be but empty sounding and will be meaningless as far as Manitobans are concerned.

The responsibility for coming back with this legislation now rests with the Attorney-General and his colleagues. They will bear responsibility for what they re-introduce into this House. We should do all within our power, in the opposition, to make the opposition stick to the commitments that they have made and we shall hopefully, by that route, Mr. Speaker, be able to satisfy ourselves that all that has been done has been done in order to preserve what was, Mr. Speaker, the most progressive Family Law in Canada.

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

**MR. JENKINS:** Thank you, Mr. Speaker. In rising to take part in what probably will be the last evening we will be here in this Chamber in this year, I want to first say that I express keen disappointment, but not surprise, at the action that the government has taken. Keen disappointment really, Mr. Speaker, because the people who have had such high hopes for the legislation that was introduced into this Chamber around the middle of this year and eventually passed have had not the assurances that we have sought, unfortunately, from the government. We have had to seek them through the Attorney-General because the First Minister has not deigned to take part in the debate at any time. He may before the evening is over, I hope. Perhaps he can make his contribution to this debate at that time to allay some of the fears, Mr. Speaker, that have been expressed by some very concerned citizens; people who have appeared not once, not twice, not thrice, but four times in front of various committees, the Law Reform Committee, the Intersessional Committee, the Committee on Statutory Regulations during the last session and the committee again here on Law Amendments. I guess they're going to have to make a fifth trip to make representations when and if the legislation is brought back into this Chamber.

The Act that was dearest to my heart was the Act on Family Maintenance. This is the Act that is already in operation. All the people that appeared before this committee who had anything to do with its operation in the brief month — or not quite a month, I believe it's two days away from being a full month of operation — have said that it has operated well. We have never pretended at any time that the legislation that we drafted and presented to this House and amended, and various amendments as the Honourable Member for Sturgeon Creek, the Minister without Portfolio said, that there were stacks and stacks of amendments; that is part and parcel of the whole process of having the committee on Law Amendments in the first place.

But all the people, with the exception of two, that appeared before this committee in the last two or three days have asked for assurances from the government that they accept certain principles. This evening when my colleague, the Honourable Member for St. Johns, tried to elicit information and principles from members of the government, mainly the Attorney-General and perhaps also the Minister of Health and Social Development — and I'm not one to knock the contributions that the Honourable Member for Fort Garry, the Minister of Health, made to that committee intersessionally,

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made to that committee during the hearings — but when basic certain principles, the nuts and bolts of what these two Acts are about, fault, vesting of the estate, equal sharing, unilateral opting out, we never got any answers. At least the answers we got were certainly not ones that we feel very safe or very sure with and I'm sure that the people who made representation in support of the legislation as it stands now — and this bill is going to take it away, it's going to throw it all back into the mess that family maintenance and marital property has been in perhaps since the feudal ages — that is the type of legislation based on English common law which was based during the Middle Ages, during the Feudal System, that is what you're putting people back to.

We have not been able to get basic answers. I asked the Honourable Attorney-General the other evening what the terms of reference were for this so-called Review Committee and what was the purpose of having briefs submitted to this Review Committee if it was only to clean up the messy parts of the Act that are not too clear. Now I think that, if not the Attorney-General then the First Minister, should state clearly to the members of this Chamber and to the people of this province exactly what the terms of reference are for this Review Committee. What is the purpose of having further submissions?

You know I would say — I think I said the other day when I took part in second reading on this bill — that we had accumulated 760 pages, not counting what had happened in the submissions to the Law Reform Commission, and with what we've been going through for the last two or three days I guess we're probably reaching the 1,000-page mark of testimony and briefs before this committee and what has come through loud and clear to us as members of the committee is that people are dissatisfied with the law as it was; they are quite happy with the laws as they are now; and I say to you if you can improve these bills and improve these Acts x legislation, fine and dandy, we will look forward to seeing that. But we don't want to see these bills emasculated and make loopholes that you could drive Paul Bunyan's ox through, because if that's the case you're going to do you might just as well say, "We repeal these bills" period and go back to what was there. That's what you are basically doing right now.

You had testimony before the committee that The Family Maintenance Act was working. And if I have any complaints with The Family Maintenance Act, Mr. Speaker, through you to the Attorney-General, it's that we don't have strong enough enforcement. I think that's something that your Review Committee and your department should be really looking forward to and I will look forward to seeing something in that vein come back to this House. But I think, Mr. Speaker, that it is imperative. I don't know, the Minister of Health seems to think that we, on this side of the House, were picking on the honourable Honourable, the Attorney-General. I can assure the Honourable Attorney-General, I am not here to pick on you in particular. You are the person who is moving this piece of legislation through the legislature, and you are the one who normally will have to bear the brunt of the attack of the Opposition. It was the same when we were in government. But, I can assure you that any remarks that I have made about you are not of a personal nature. You are there as a front for your government for this bill, and the criticism that we level through you, Mr. Speaker, at the Attorney-General, is levelled at the government in toto, not at the Honourable Attorney-General. And so, if we should fail to get a commitment on maintenance of the principles of this act and the fault is not yours, Mr. Speaker, through you to the Attorney-General; the fault is not the Attorney-General's, the fault is that of the government.

You know, Mr. Speaker, as I said when we were discussing this bill in second reading, that I went on to this Committee not knowing very much about what is all entailed in this field, but I tell you, it certainly was an "eye-opener" to me to hear some of the problems and tribulations of the people who have been involved in some of the archaic legislation that we have had. And, this piece of legislation has been hailed from one end of the country to the other as the most progressive piece of legislation that has been introduced in this country, never mind this province. If I can take pride in anything, in the years that I've spent in this legislature, I would have to say that I think that this was one piece of legislation that I was involved with that I will always be proud that I had something to do with seeing that it would come about. And now to see that the legislation is going to go into limbo and God knows what kind of form it is going to come back into this House, it disturbs me greatly, disturbs me more than my stand that I took the other other day on the Anti-Inflation Bill. My God, that was pangs of conscience too. But to see this legislation not even given the opportunity to see how it works! Your legislation that you will bring into this House will not be perfect; you will not dot all the "i's" and cross all the "t's" I can assure you, and there will be fault found with it. The only test is the acid test of time and usage, and you were not even prepared to give legislation even that, even though the one has had a bare four weeks.

And so, the responsibility and the onus will be on you, as the government, to insure that the principles that you maintain that you adhere to — but when you are asked about specific principles of the bill, we get a sort of waffling, we don't really get that answer quite clear. So, legislation that you bring in will be your legislation. You're going to have to stand and fall by that piece of legislation when it's reintroduced into this House. The people will be here again and they will make representations, and I can assure you and as you already know, Mr. Speaker, through you to the Attorney-General, that they are articulate enough, far more articulate on that subject than I am. They will tear your legislation to pieces just as neatly as Ms. Halprin was tearing our piece of legislation to pieces today.

Basically, Mr. Speaker, I can't say much more about this bill. We have tried, we've tried to save it and it's not a matter of ego that we presented this legislation, that we don't want to see someone else get the credit. Lord, if you can bring in legislation that is better than ours, more power to you, but at least we would like to know the terms of reference of the Review Committee. What is the purpose of

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hearing submissions if they're only for redrafting of legislation, or are they going to bring in new legislation? That is something that only time will tell. So I say again, Mr. Speaker, it is with great disappointment that at least the one bill, The Family Maintenance Act, was not salvaged, but it's not with a great deal of surprise. That's all I have to say, Mr. Speaker. Thank you very much.

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

**MR. SAUL CHERNIACK:** Thank you, Mr. Speaker. Since I expect that this will be the last occasion in this session that I will be speaking, I trust you will give me the opportunity to wish all my colleagues on both sides of the House, Compliments of the Season and enjoyable and successful winter months because we all must regain our strength and our resources in order to come back whenever the government, in its wisdom, decides to call a session and do a great deal of work, which I am sure we will have to do.

Mr. Speaker, this session was supposed to be a special session in the eyes or in the minds of the government, but it became apparent very quickly that it was a routine session in that legislation was brought forth that was not of an emergency nature. The bill before us that we're dealing with now, was clearly one that, according to spokesmen of the government, was not one which would have justified the calling of an urgent session, but was brought in only because the government felt they had to call a session to deal with the AIB. Well, Mr. Speaker, I'm sure that they were pleased to have had the opportunity to come even though they had no mandate to have a session centering around the bill before us today.

It has been said that there was no election promise on the part of the Conservatives to do what they have just done and I believe that is true. I believe they did not dare go to the public and inform the public about what they were going to do. This evening was a predictable evening — I predicted it and I'm not that knowledgeable or that much of a forecaster, I think many people who knew the Conservative Party for what it is, predicted that we would come to this evening, an evening which would spell the doom of some of the most progressive legislation that has come not only out of this legislature but out of the Western World. It was predictable because I knew that the Conservative Party would do such a thing, and I have to say that I was apprehensive when the election was called that the Conservative Party would be in a position to do such a thing. I had occasion to tell people that this is what would happen if the Conservatives would be elected, because one cannot just look at isolated legislation and say, "well, this they will accept, this they will reject", if one knows the philosophy that motivates a political party.

I must say that there are some members in the Conservative Party that I would expect to be more progressive, more advanced in their thinking than others. Unfortunately they have not spoken up at this session. As a matter of fact, Mr. Speaker, there are now some twelve members of the Conservative Party present in the House, one of whom voted in favour of the Marital Property Act, one, two, three only and a fourth just walking in, who voted against the legislation, and the balance never expressed

never voted for or against this legislation. What I criticise a vote' them for is that they never voted, nor did they speak or express an opinion on what was taking place. I had occasion to say in Committee that a few of them showed a very keen interest or appeared to show a very keen interest in what was being said, and I was somewhat shocked that in spite of the fact that they listened and attended, they kept their mouths closed and their opinion is not known to me, but it was when the vote came.

Well, I've been a member of provincial legislature for a long time and I'm familiar with the nature of a whip, and I accept party principle, but I have to say that until the vote came last year, there was no clear-cut difference between the two parties when it came to dealing with the legislation — a great deal of debate but we were not given the opportunity to hear members here, because it was preordained that the Conservative Party would kill this very progressive legislation.

Mr. Speaker, from the very beginning, I had a dichotomy of approach. On the one hand I felt that the legislation that we had enacted last spring was so important, so vital, that I should be one of those who does everything possible to keep it, and if we couldn't keep it, to try and salvage some portions of it, to try and make it more workable even if I would have to compromise some of the principles, to try and see whether we could negotiate a variation, even one which I rejected. That was one motivation I had. On the other hand' Mr. Speaker, I felt that the Conservative Party would show its true colour, would show its true philosophy, would proceed to do as it wanted to do. I wasn't sure of the style or technique, I didn't know if they would ram it through or if they would debate it and expose principle in them, but I felt that that would be good for our party. I felt it would be a successful thing for our party to show the Conservatives for what they are in relation to progressive legislation.

I discussed it with some of our colleagues on this side and we unanimously agreed that the legislation was too important to try to use, or to try to see it develop in a political way to our political advantage. I think it can be said honestly and fairly, that we fought the efforts of the government all the way. We suggested means by which we could understand whether they had specific objections which would make it more acceptable than to keep the legislation. Specifically we dealt with taxation which they thought was a very important one, one of the really important features. We suggested ways they could accept the legislation and still make adjustments or defer some of the impact of that. We suggested that they show us evidence that they would indeed bring in the changes next session, and all we got was an undertaking by the Attorney-General without his being prepared to put it into legislation. He was not prepared to give to the people of Manitoba who were represented at the Law

Amendments Committee, the kind of assurance that they could read in legislation' that they could see that there would be a compulsory feature to the government to do something concrete about the legislation. No, the legislation was drafted so that the government could kill the legislation, and when they were given an opportunity to indicate evidence of good faith that they had no such intention, and that indeed they would not kill it, they did not take advantage of the opportunity. The legislation as it appears before us today gives the government the opportunity to do nothing and to maintain the old archaic principles and policies established in the law, which existed for many years up to last June. They've shown a completely inflexible attitude, and I think it was not until this evening that we started to get some responses out of them. Up to then, it was a stone wall, it was a blank response without any true indication of intent. When we first came in, we had the impression that they gave us, that it was a question of polishing, that the law was so badly drafted that it was necessary to polish it and improve it. As it developed, especially today, especially this evening, it became clear to me and I think clear to all who heard, that the government was thinking in terms of very radical changes to the principles already enacted. That, I say, is an inflexible attitude, and one where I'm bound to criticise, especially the new members of the legislature who didn't even say a word about it. A position of arrogance on the part of the leadership and a position of submission on the part of the backbench.

Mr. Speaker, the Honourable Member for Selkirk referred to the delegations that we heard. Mr. Speaker, the delegations that we heard were 28 or 29 in number; all but one were in favour of keeping the law as it is today. And, although the Member for Selkirk listed whom they represented, I want to repeat that. The very first name on the list that was given to us, was a representative from the Institute of Chartered Accountants, who was expected to give written or oral submission. Mr. Speaker, he gave none. Can we interpret that in some way? He said he was coming from the Institute of Chartered Accountants, he didn't appear. Does that mean lack of interest, does that mean that they did not have a strong position or does that mean that they knew, as I knew, Mr. Speaker, that the government would do nothing, nothing to change the bill that they brought in. Therefore, if he was opposed to it, he need have had no fears. But, Mr. Speaker, one might then suggest that others didn't come because they knew what would happen. I guess only Graeme Haig was so sure that this matter would be settled without his intervention, that he didn't come. The reason I mention this and risk the accusation that people didn't come because they knew the Conservatives would be inflexible, I do that to point out that at all the other hearings for the last three times that the matter was considered by Legislative Committees and by the Law Reform Commission, they didn't turn up then either, which means to me that there was no one organized group of people that had such feelings in opposition to the Marital Property Act and the Family Maintenance Act that would motivate them to come and object to it. Last Spring we had two lawyers representing themselves only, who spoke against it. Well, whom did we have at this last group of meetings of the law amendments committee? We had a representative of the Coalition on Family Law; we had a representative of the Young Women's Christian Association, Women's Resources Centre; we had a representative of the Provincial Council of Women of Manitoba, who said that she represented some 40,000 women; we had a representative from the Manitoba Action Committee on the Status of Women; we had a representative from the Women's Liberation and Women's Place; we had a representative from the NDP Status of Women Committee.

Mr. Speaker, we did not have a representative from the Conservative Women of Manitoba. Do you want to draw your conclusion that they didn't care, or would you rather accept my interpretation that they thought it wouldn't do them any good, that they thought it would do the Conservative party harm, that they felt that their battle should be fought behind closed doors rather than in the open so as not to embarrass the government that they helped elect. I choose to believe, because I know, that some of the women of the Conservative party were very much upset by the Conservative government's attitude, and I am sure that they let their feelings be known to Conservatives in the House, but they did not come to our session and I missed them. And I would think that, all right, their allegiance and loyalty to the party was greater than their allegiance and loyalty to the principles involved in these bills.

We had a representative from the Catholic Women's League; we had a representative from the Manitoba Teacher's Society; we had a representative from the Legal Aid Lawyers, some 40 members who apparently handle the largest volume of court work in this area of Family Law; we had a representative from the Voice of Women; we had a representative from Women in the Law; we had a representative from the Manitoba Section on the Status of Women; a representative from the Winnipeg Chapter of the Canadian Congress of Women; a representative from the Human Rights of United Nations; a representative from the Advisory Council to the Federal Government on the Status of Women; all of them argued strenuously that the law that had been enacted last June, perfect or imperfect as it was, should be maintained, many of whom recognized that there could be amendments brought in if not now, then at the next session.

The most important feature, Mr. Speaker, is that the Manitoba Bar Association Subsection on Family Law wrote a letter to the Conservative caucus, six pages long, suggesting certain amendments and in case of each of the acts said, "We believe it should be maintained." And the arrogant Conservative government not only did not inform us of the advice that they received, but proceeded to ignore the advice that they received from these three, I mentioned three organizations of lawyers, and relied on whose advice, Mr. Speaker? I don't know. I don't know what group of people, what people with experience in the field came to the government and said, "Postpone what you're doing." Why is that, Mr. Speaker, why is that? Individuals, yes, last spring there was Mr. Ken Houston, who opposed it strongly, who said you don't need any law at all, because the law is good enough as it

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is, and who said if it is thought that there ought to be a change in the law, then you take the Married Women's Property Act and you write in a section that says there shall be a presumption of equal sharing in the assets of a marriage, which is rebuttable — something like that. He said that will take care of the concerns you have which you really don't need to have.

Then we had a Miss Halprin who came then, and again today, who said, Well, I think maybe we need some change in the law, so let's agree that the proposal by Mr. Houston to make that one change is a good one.

Well, Mr. Speaker, we've gone through the cycle, we've had the buoyant feeling of many people in Manitoba, I believe all the people who really recognized a problem and cared about it, had the buoyant feeling of success last June and today they are part of that feeling of depression, which was evidenced by the Member for Selkirk and the Member for Logan. Well, Mr. Speaker, I disassociate myself from that feeling of depression. To me, we are seeing what was predictable and was right. If the people of Manitoba wanted a Conservative government, then they have to suffer the consequences of a Conservative government.

Mr. Speaker, I just want to say this: the delegations that appeared before us in the last few days made the point that they were back for the fourth time, really, they appeared before the Law Reform Commission, then they appeared before the Intersessional Committee on Statutory Regulations and they appeared before Law Amendments last June, and they have appeared now for the fourth time. A few of them expressed great indignation — why are we being dragged back again for the fourth time, we've been here, we've talked about it, we had a law passed, why are you dragging us back. Well, Mr. Speaker, one of the members who spoke just before I did said, "They'll be back next year."

Mr. Speaker, I believe the Attorney General will honour his commitment that there will be amendments, I believe that if he can't honour the commitment he will probably resign because he made it very clear that there will be amendments. I predict those amendments will be regressive; I predict they will be reactionary, they will bring us back to preprogressive Marital Laws; I predict they will be bad in the sense of protecting the rights of individuals who have been unprotected for many years; and I assure you — now I am not saying I predict or I believe, I promise you that year by year they will be back and they will be back because they will not have satisfactory legislation from the Conservative government, and they will be back because they won't give up, and they will be back because we won't give up. And I predict that year by year, as long as we are in opposition, we will bring the matter back to this House, and the delegations will be back year by year until there is a New Democratic government in office and will again resurrect what was a very progressive law and which will not be progressive again until the New Democratic Party is back in the reins of government and again assumes the responsible of doing the important feature for those people who have fought so long for an equal status. It's all they fought for, Mr. Speaker — not more than equal, not better than equal which I think was the expression that the First Minister used, not only will we will be equal, we will be more than equal. What that is only his mind could conceive of how you can be more than equal on both sides. But all they asked for was equality and they were granted it to a large extent last June, they are now losing it. We are now back, the Member for Inkster described that we are back now to archaic law, law that is completely one-sided, law that is reprehensible. We are today enacting that law, and it will take a long time before the Conservatives come back to having something about which Manitobans can be proud, and it will probably be never when they will be able to say, as they were able to say last June, we in our province have the most progressive and advanced legislation in the field of the proper sharing and recognition of the right of both parties to a marriage in the property acquired during the term of the marriage.

So, Mr. Speaker, I am not depressed about it, but I am sad. I think it's a sorry day, I think it's a sorry day and I feel that the Members opposite, in the back bench who have really never had a proper opportunity until a few days ago to realize what they are doing, and are now doing something that I think they really had no part in, that they too will have good cause to regret what they are doing and may feel a little bit embarrassed. The people in the front bench, I don't give them the benefit of that feeling because they knew what they were doing and they're arrogant enough to have done it without even the courtesy of a public discussion on why they were doing or a proper and honest presentation of what their intentions were, and their intentions were not to polish, not to make perfect what they thought was imperfect, but to change the law. They've done it, they've accomplished it. Thank you, Mr. Speaker.

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

**HON. GERALD W. J. MERCIER (Osborne):** Mr. Speaker, Sir, I just wish to make some brief remarks.

Firstly, just to correct some information which the Honourable Member for St. Johns was not aware of and neither was I until the Clerk advised me. The first delegation who was noted to come before the Law Amendments Committee apparently was incorrectly noted as a delegation and wanted to make a submission to the Family Law Review Committee and not before the Law Amendments Committee, so he was inaccurately placed as a delegation before Law Amendments.

Mr. Speaker, I would like to generally and sincerely acknowledge my appreciation, I'm sure the appreciation of many members of the Law Amendments Committee for the submissions that were made to the Committee in respect to this bill. While regretfully we cannot agree with the position taken by a vast majority of the delegations, I think it certainly emphasizes the importance of the reform of matrimonial property legislation, to which we are committed, Sir, and to which we will

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address ourselves and bring in amendments at the spring session of the next legislature and hopefully be in a position to implement that legislation next year.

I must point out with respect to comments concerning the recommendations of the Family Law Subsection, Mr. Speaker, that the previous government did not always listen to the recommendations of the Family Law Subsection, they made a number of suggestions previously to them and they were not concurred in by the previous government, so I don't think the fact that any particular group in society makes a recommendation makes it binding on a government. Government is here to pass legislation that it deems in the best interest of the citizens of this province, and while, no doubt the submissions of any group or any individual are important in formulating a position, they are certainly not binding and certainly the Member for Inkster is in agreement with that.

I just want to confirm, once again, Mr. Speaker, that the review will be made, the amendments will be introduced and the real proof of the position of the government will be in the actual legislation that is finally adopted by this legislature. I am quite prepared and Members on this side, Mr. Speaker, are prepared to take responsibility to further the cause of this legislation. We are committed to do that, Sir, and I look forward to the day, approximately six months or whatever time it will be, when we have completed a spring session of the legislature and are in a position to proceed with this legislation.

**MR. SPEAKER:** Is it the pleasure of the House to adopt the resolution? All those in favour please say aye. Those opposed please say nay. In my opinion, the ayes have it.

**MR. GREEN:** The yeas and Nays, Mr. Speaker.

**MR. SPEAKER:** Call in the Members. The question before the House is Third Reading on Bill No. 5, The Family Maintenance Bill.

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

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

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

**MR. CLERK:** Yeas 28, Nays 21.

**MR. SPEAKER:** I declare the motion carried. The Honourable House Leader. The Honourable Minister of Finance.

**MR. CRAIK:** Mr. Speaker, I have a message from His Honour the Lieutenant-Governor.

**MR. SPEAKER:** The Lieutenant-Governor transmits to the Legislative Assembly of Manitoba Estimates of further sums required for the services of the province for the fiscal year ending the 31st day of March, 1978, and recommends these Estimates to the Legislative Assembly.

**MR. CRAIK:** Mr. Speaker, I move, seconded by the Honourable the Minister of Health and Social Development, that this House will at its next sitting resolve itself into a Committee to consider of the Supply to be granted to Her Majesty.

**MOTION presented and carried.**

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

**MR. CIK:** Mr. Speaker, I move, seconded by the Honourable the Minister of Consumer and Corporate Affairs, that this House will at its next sitting resolve itself into a Committee to consider of Ways and Means for raising of the Supply to be granted to Her Majesty.

**MOTION presented and carried.**

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

**MR. CRAIK:** Mr. Speaker, I move, seconded by the Honourable the Government House Leader that the said message, together with the Estimates accompanying the same, be referred to the Committee of Supply.

**MOTION presented and carried.**

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

**MR. CRAIK:** Mr. Speaker, I move, seconded by the Honourable the Minister without Portfolio in charge of the Task Force, that Mr. Speaker do now leave the Chair and the House resolve itself into a Committee to consider of the Supply to be granted to Her Majesty.

**MOTION presented and carried,** and the House resolved itself into a Committee of Supply with the Honourable Member for Roblin in the Chair.

#### COMMITTEE OF SUPPLY

**MR. CHAIRMAN, Mr. J. Wally McKenzie (Roblin):** Members of the Committee, the resolution that's before the House: Resolved that there be granted to Her Majesty a further sum not exceeding \$126,490.00 for Legislation.

The resolution was read clause by clause and passed.

Committee rise. Call in the Speaker.

*The Chairman reported upon the Committee's deliberations to Mr. Speaker.*

#### IN SESSION

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

**MR. McKENZIE:** Mr. Speaker, I move, seconded by the Honourable the Member for Rock Lake, that the report of the Committee be received.

**MOTION presented and carried.**

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

**MR. CRAIK:** Mr. Speaker, I move, seconded by the Minister of Education, that Mr. Speaker do now leave the Chair and the House resolve itself into a Committee to consider of the Ways and Means for the raising of the Supply to be granted to Her Majesty.

**MOTION presented and carried,** and the House resolved itself into a Committee of Ways and Means with the Honourable Member for Roblin in the Chair.

#### COMMITTEE OF WAYS AND MEANS

**MR. CHAIRMAN, Mr. J. Wally McKenzie (Roblin):** Resolved that towards making good certain further sums of money granted to Her Majesty for the public service of the province for the fiscal year ending the 31st day of March, 1978, the sum of \$126,490.00 be granted out of the Consolidated Fund—pass.

*The Chairman reported upon the Committee's deliberations to Mr. Speaker.*

#### IN SESSION

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

**MR. McKENZIE:** Mr. Speaker, I move, seconded by the Honourable Member for Emerson, that the report of the Committee be received.

**MOTION presented and carried.**

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

**MR. CRAIK,** by leave, introduced Bill (No. 7), an Act for granting to Her Majesty certain further sums of money for the public service of the province for the fiscal year ending the 31st day of March, 1978.

**MR. CRAIK,** by leave, presented Bill (No. 7), an Act for granting to Her Majesty certain further sums of money for the public service of the province for the fiscal year ending the 31st day of March, 1978, for second reading.

**MOTION presented and carried.**

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

**MR. CRAIK:** Mr. Speaker, I move, seconded by the Minister of Northern Affairs and Renewable Resources, that Mr. Speaker do now leave the Chair and the House resolve itself into the Committee of the Whole to consider the following bill:

No. 7, an Act for granting to Her Majesty certain further sums of money for the public service of the province for the fiscal year ending the 31st day of March, 1978. Mr. Speaker, that's by leave.

**MOTION presented and carried,** and the House resolved itself into a Committee of the Whole to consider Bill 7, with the Honourable Member for Roblin in the Chair.

### **COMMITTEE OF THE WHOLE**

**MR. CHAIRMAN:** (Bill No. 7, an Act for granting to Her Majesty certain sums of money for the public service of the province for the fiscal year ending the 31st day of March, 1978, was read page-by-page and passed.)

*The Chairman reported upon the Committee's deliberations to Mr. Speaker.*

### **IN SESSION**

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

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

**MOTION presented and carried.**

**BILL (No. 7),** by leave, was read a third time and passed.

*The Honourable the Administrator of the Province of Manitoba, having entered the House and being seated on the Throne.*

### **ROYAL ASSENT**

**MR. SPEAKER:** May it please Your Honour,

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

**MR. CLERK:** No. 3, an Act to amend The Gift Tax Act (Manitoba) and the Succession Duty Act (Manitoba).

No. 4, an Act to amend The Mineral Acreage Tax Act.

No. 5, an Act to suspend The Family Maintenance Act and to defer the coming into force of The Marital Property Act and to amend certain other Acts and make Provisions required as a Consequence thereof.

No. 6, an Act to amend The Employment Standards Act (Overtime Rate of Wages).

No. 8, an Act to amend The Summary Convictions Act. *To these Bills the Royal Assent was announced by the Clerk of the Legislative Assembly as follows:*

**MR. CLERK:** In Her Majesty's name The Honourable The Administrator doth assent to these Bills.

**MR. SPEAKER:** We, Her Majesty's most dutiful and faithful subjects, the Legislative Assembly of Manitoba in session assembled, approach Your Honour with sentiments of unfeigned devotion and loyalty to Her Majesty's person and Government, and beg for Your Honour the acceptance of this Bill:

Bill No. 7 - An Act for Granting to Her Majesty Certain Further Sums of Money for the Public Service of the Province for the Fiscal Year Ending the 31st day of March, 1978. *To this Bill the Royal Assent was announced by the Clerk in the following words:*

**MR. CLERK:** The Honourable the Administrator of the Government of the Province of Manitoba doth thank Her Majesty's dutiful and loyal subjects, accepts their benevolence, and assents to this Bill in Her Majesty's name.

**THE HONOURABLE THE ADMINISTRATOR OF THE GOVERNMENT OF THE PROVINCE OF MANITOBA:** Mr. Speaker and members of the Legislative Assembly, you have now completed the

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work of the First Session of the Thirty-First Legislature. I wish to commend the members for their faithful attention to their duties which, on this occasion, were concerned with some particular matters I placed before you in opening the Session.

I thank you for providing the necessary sums of money for carrying on the business of the session and I convey to you my appreciation of the care you exercised in examining the measures which were laid before you for the general welfare of our Province.

In relieving you now of your present duties and declaring the First Session of the Thirty-First Legislature prorogued, I give you my best wishes and pray that under the guidance of Divine Providence our province may continue to assure to all its people the fullest possible measure of health, happiness and well-being.

**MR. MERCIER:** It is the will and pleasure of The Honourable, the Administrator of the Government of the Province of Manitoba that this Legislative Assembly be prorogued until it shall please His Honour to summon the same for the dispatch of business, and the Legislative Assembly is accordingly prorogued.