

LEGISLATIVE ASSEMBLY OF MANITOBA
Friday, 13 February, 1981

Time — 10:00 a.m.

OPENING PRAYER by Mr. Speaker.

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

**PRESENTING REPORTS BY STANDING
AND SPECIAL COMMITTEES**

MR. SPEAKER: The Honourable Member for Radisson.

MR. ABE KOVNATS (Radisson): Mr. Speaker, the Committee of Supply has adopted certain resolutions, directs me to report same, and ask leave to sit again. I move, seconded by the Honourable Member for Virden, report of committee be received.

MOTION presented and carried.

MR. SPEAKER: Ministerial Statements and Tabling of Reports . . . Notices of Motion . . . Introduction of Bills . . .

ORAL QUESTIONS

MR. SPEAKER: The Honourable Leader of the Opposition.

MR. HOWARD PAWLEY (Selkirk): Mr. Speaker, my question is to the Minister responsible for Manpower. In view of the fact this is the last day for the operations of Maple Leaf due to its closing, can the Minister advise what action the government has undertaken in order to ensure those that are displaced at Maple Leaf are being properly placed?

MR. SPEAKER: The Honourable Minister of Labour.

HON. KEN MacMASTER (Thompson): Mr. Speaker, could the Leader of the Opposition repeat the last part of his question? He asked what actions we were taking to assure, and I don't know what the final part was.

MR. PAWLEY: Mr. Speaker, the question is, what action has the Minister undertaken in view of the fact that this is the last day for the operations of Maple Leaf, in order to assist in placement of those displaced at Maple Leaf to be placed elsewhere.

MR. MacMASTER: Mr. Speaker, there is a joint committee been established some time ago between the Federal Government and our government, the employees, and the company, and they have been working very diligently in a lot of ways; assisting in counselling, assisting in helping the employees prepare themselves for job applications and resume writing. There has been a very substantial list of other employers who would be willing to employ some of the employees that are presently still with the company. There are numbers, I don't have them with me, of employees who have now found other

jobs and there are substantially more that are certainly making inquiries as to other jobs, Mr. Speaker.

MR. PAWLEY: Mr. Speaker, though the Minister indicated that he didn't have the numbers with him, I'm sure the Minister is quite conscious of this particular matter, yield its importance. Can the Minister advise how many workers have not yet been placed in other jobs?

MR. MacMASTER: Mr. Speaker, I do not have the precise numbers, but I did meet with the representatives from the Union and from the Manitoba Federation of Labour and I'd be guessing if I said there was 50 or 60 at that time had found other employment. It may be more now, but I don't have those precise numbers, Mr. Speaker.

MR. PAWLEY: Mr. Speaker, since it's well over a year since the closure of Swift's, can the Minister update us as to what progress has been made in regard to ensuring that all the employees have been properly placed over the past year?

MR. MacMASTER: Mr. Speaker, the Leader if the Opposition would have to clarify what he means by properly placed.

MR. PAWLEY: Mr. Speaker, the question simply is we're aware of the fact that many workers that worked for many years at Swift's have been unable to obtain jobs. Can the Minister advise how many? How many workers that were displaced by the closure of Swift have been unable to obtain comparable jobs to which they have been accustomed to over the years as employees at the meat packing plant?

MR. MacMASTER: Mr. Speaker, I again wonder what the Leader of the Opposition means by comparable. I suppose it would be idealistically perfect if within society today if there is a closure for whatever reason, that those that are were \$5.00 an hour or \$6.00 an hour or \$7.00 an hour could find another identical job and at that particular rate and if they could find one in the location at which they're used to travelling, and if they could find a car pool to get them there at the same time and if they could find a sort of shift that would be comparable and I hear the members sort of ha-hawing this. These are the things that are of concern to people that are displaced, the very things I've said. If they've worked for a plant for a particular period of time, they're interested naturally in the seniority and the rights they'e got and the location, the comfortable area in which they have become accustomed to going to work and the shifts that they're on. And I believe that's what the Leader of the Opposition means by comparable and it's always very difficult, very difficult, if not impossible for any person to quit a job under any circumstances and find something else that falls exactly in a comparable situation. There are large number of Swift's employees who have in fact found jobs. Are they totally completely satisfied? I can't assure you of that, Mr. Speaker.

MR. SPEAKER: The Honourable Leader of the Opposition

MR. PAWLEY: Mr. Speaker, we're not at all impressed by the likeness by which the Minister has obviously been taking this entire matter, both Swift and Maple Leaf and the more that we receive by the way of answers, the more clear that becomes. Mr. Speaker, could the Minister advise what steps are being undertaken in order to ensure that pension benefits are protected insofar as those that had been displaced in the two plant closures.

MR. MacMASTER: Mr. Speaker, in relationship to the Swift situation, if the Leader of the Opposition was in as close a contact with the labour movement as he proclaims to be, he would find out from the union officials that were involved in representing the Swift's employees, that in fact they were pleased with the additional, the additional rights that this particular government through our good people within the pension commission got for those particular employees and he'll appreciate the fight that took place. I have never before bothered to stand up and take credit in any way for that. I say to you, Mr. Speaker, that the credit for the additional benefits to the Swift's employees that were involved by solely, with the good civil servants working within our pension commission and the Leader of the Opposition should know that. The union people will tell me if he wishes to look at the situation or if he wishes to talk to me. As it relates to the Maple Leaf situation, the MFL and the union people involved there have talked to me about it, they know that our same pension commission people are working on that situation. So I don't know why the need for the question, unless he's short of questions.

MR. SPEAKER: The Honourable Member for Inkster.

MR. SIDNEY GREEN (Inkster): Mr. Speaker, I'd like to direct a question to the Minister to whom the Manitoba Public Utilities Board reports. I'm not sure who the Minister is at the moment, it's a new Minister, Mr. Speaker. Well he'll have an interesting new question. Can the Minister confirm that the Greater Winnipeg Gas Company, whose employees are on strike, are now telling people who normally get maintenance work done as part of their gas purchases contract, are telling these people that they have to go out and hire a contractor to do the work and that the cost of that work, which is normally part of their normal maintenance, is to be paid for by themselves personally because these employees are on strike? Can the Minister determine whether that in fact is the case, and if it is, whether that complies with the Public Utility Board requirements with regard to prices and service provided by those prices?

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

HON. GARY FILMON (River Heights): Yes, Mr. Speaker, I heard a report of that on the radio this morning as well and I can confirm that I've heard the report. I can't confirm that I have seen a notice to that effect and I cannot as well confirm whether or

not it conforms with their pricing arrangements under the Public Utilities Board, so I'll take that question as notice and bring back the information.

MR. GREEN: Mr. Speaker, if it does not conform with the notice, would the Minister see to it that legislation is brought in to pass all 3 bills immediately, for the Greater Winnipeg Gas Company who normally provide these services and who are now in a dispute with their employees and the people in this province should continue to be entitled to those services and if the legislation does not provide for it, it's an oversight which we can quickly deal with so that people in the Province of Manitoba who have a contract for the supply of gas have the maintenance which they were always given to believe and had the habit of understanding that contract would fulfil.

MR. FILMON: Mr. Speaker, since the question is based on the presumption that it does not conform, I will take the matter under advisement and bring back information with the other question.

MR. GREEN: Mr. Speaker, I have a supplementary but it may well be that the Minister of Labour will want to answer this question. Does the Minister to whom I put the first two questions, not appreciate that what is going on with respect to industrial relations is that the Gas Company is now in a position, by doing this, and is put in the position if the government doesn't see to it that the contractors get their service, of never ending the strike because they are now not paying the workers who are on strike and not paying the maintenance people who's work is being performed by other contracts and that it is in the interests of the Gas Company that the strike go on forever? Is that not a fact? I put it to the Minister or Labour, and if so, what can be done about seeing to it that the Gas Company continues to fulfil their contract to provide maintenance to the people concerned?

MR. SPEAKER: The Honourable Minister of Labour.

MR. MacMASTER: Mr. Speaker, it's an interesting situation, and I don't say that lightly — well of interest to the Member for Inkster and myself, I think we understand the word interesting. It is certainly taking a different slant from normal disputes. I suspect without taking sides of either one, I suspect that in fact the facts are as the Member for Inkster has spelled out, that appropriate actions would be taken within the community of the City of Winnipeg, and I think that sort of tells the story that this is a different situation and I think outside forces are going to have something to do with correcting the situation that the Member for Inkster . . .

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

MR. SAUL CHERNIACK: Thank you, Mr. Speaker. I want to ask the Honourable Minister of Labour who referred to the joint Manpower Consultative Service Committee appointed and funded partially by this government regarding Swift employees, whether he would table for the Legislature the report of that committee?

MR. SPEAKER: The Honourable Minister of Labour.

MR. MacMASTER: Mr. Speaker, that committee is working on its own and I have no report to table. I have given him the information that's been given to me.

MR. CHERNIACK: Mr. Speaker, would the Honourable Minister clarify whether or not he has a report? I am assuming he does have a report, and when he said not a report to table, does that mean he does not wish to table the report which he has?

MR. MacMASTER: It is not a report as such, Mr. Speaker.

MR. SPEAKER: The Honourable Member for St. Johns with a final supplementary.

MR. CHERNIACK: Thank you, Mr. Speaker. In view of the fact that the Minister of Labour does have a report, or a comment, or a report that he doesn't call specifically a report, whatever he does have from that Committee, is he prepared to table it, it having been prepared with public funds, of course, and being one which was a Committee made up of various aspects of the people involved? Is he prepared to table whatever he has received by way of information from that Committee or advise from that Committee?

MR. MacMASTER: Well, Mr. Speaker, I'd have to review the information that I have received from that committee and the forces within that committee and the parties within that committee and the meetings that I've had with various groups within that committee, I'll review what the information is that I have.

MR. SPEAKER: The Honourable Member for Ste. Rose.

MR. A.R. (Pete) ADAM: Mr. Speaker, my question is addressed to the Minister of Natural Resources. I would ask the Minister if he could report to us on the results of a meeting that took place in Portage la Prairie between the department, manufacturers of gill nets, distributors of gill nets and agents and MLAs and the board of the Lake Manitoba Fishermen's Association.

MR. SPEAKER: The Honourable Minister of Natural Resources.

HON. HARRY J. ENNS (Lakeside): Mr. Speaker, I am aware that it's against the rules, but knowing that the Honourable Member attended that meeting I understand for the better part of the day, perhaps I should be asking him to report to the House as to what occurred on that meeting, but the . . . Leave.

MR. SPEAKER: The Honourable Member for Ste. Rose.

MR. ADAM: Mr. Speaker, I have just been given leave to report on the results of that meeting. I have just been given leave by this House and if that is in order I will proceed. Mr. Speaker, having been given the leave of the House . . .

MR. SPEAKER: Order, order please. We're in the question period. If the honourable member has a question, he may proceed.

MR. ADAM: Well, Mr. Speaker, I did pose a question to the Honourable Minister of Natural Resources and if he is prepared to report on the outcome and if he has dealt with whatever the outcome was of that meeting, I think that he should now provide that information, because surely he should be able to tell us at least if he has met with the department people to try and resolve what I perceive to be a very complex problem, as a result of the meeting.

MR. SPEAKER: The Honourable Minister of Natural Resources.

MR. ENNS: Mr. Speaker, I certainly don't intend to make light of what is in fact a serious situation for a substantial number of individual fishermen, particularly on Lake Manitoba. It's a complex problem but by no means a new one. Even since commercial fishing activity began in this province, and ever since regulations began in this province, in the interest of protecting that resource and it's a correct harvest the question of fisherman fishing with undersized nets has been with us. And that really is the nub of the question. We have a specific problem where a supplier of nets has changed to a different manufacturer and this has resulted in an inconsistency in measurements of these nets which the conservation officers correctly have identified and have asked to be lifted or not to be used on the lakes. I'm awaiting, as the honourable member knows full, senior members of his staff attended that meeting, which I understand was a good meeting, it carried on and dealt with a number of other items as well. It would be my hope that one of the immediate results would be that we would get an advisory board established on Lake Manitoba similar to the kind that we have operating on Lake Winnipeg where these kind of issues can be aired with the people involved, the fishermen, along with the departmental officials that are charged with the responsibility of carrying out the regulations from time to time.

I would hope that perhaps at the beginning of the week I would have some further word to add to this.

MR. SPEAKER: The Honourable Member for Ste. Rose with a final supplementary.

MR. ADAM: Thank you, Mr. Speaker, as a supplementary, you know the Minister mentioned about fishing with undersized nets has been with us for many, many years. There's a difference between intentionally fishing with undersize nets or gill nets in a particular lake and fishing with gill nets unintentionally that were bought as legal size mesh and later on to find out that because of the difference of the measurement at the factory, the different way that the gill nets are measured at the factory and the different way that the regulatory body is measuring those nets with a different type of instrument, that these problems arise. And I ask the Minister, because of the fact that the fishermen and the agents are caught in between these two areas, between the manufacturer and the regulatory body, is the Ministry going to allow the fishermen and the agents to be responsible for something that is not of their own making?

MR. ENNS: Mr. Speaker, as the member knows, there have been different suggestions that were

made during that meeting as to how to deal with it. One is to allow the fishermen to continue using, for the duration of this season, the undersized nets. But that could be a very unfair situation too to the fisherman that is using the legal size nets beside him. And half an inch or a quarter of an inch could well be taking next year's catch out of the lake and the fishermen are well aware of this.

There is a problem and it's a question though of the kind of jurisdiction that the department and/or the government has in this matter. If I buy a shirt from Eaton's for a size 15 1/2 collar and I come home with it and it's size 13, I take it back to Eaton's, and Eaton's being the reputable firm that they are, they will exchange it or give me my money back or provide me with a shirt that I intended to purchase. I have a concern, a real concern for the fishermen, who, as the member indicated, bought nets in good faith of being of legal size. But that does not make them legal if that's the only criteria by which they bought them if they don't fit the measurements they are illegal for use for commercial fishing use in the Province of Manitoba.

MR. SPEAKER: The Honourable Member for Churchill.

MR. JAY COWAN: Thank you, Mr. Speaker. My question is to the Minister of Labour and follows on the questions of my leader and the Member for St. Johns, earlier. During the course of answering those questions the Minister made several references to a meeting which was held in January between representatives of the Manitoba Federation of Labour, the United Food and Commercial Workers, employees of Maple Leaf Mills, and he and his staff. I would ask the Minister if he can now indicate what action he has taken in respect to the requests which were forwarded to him by those persons during the course of that meeting?

MR. SPEAKER: The Honourable Minister of Labour.

MR. MacMASTER: Mr. Speaker, there were two or three points that were raised at that particular meeting. One was that of the 130 or 140 jobs that were apparently available to the people at Maple Leaf, that it was the understanding of the union, and I don't think they were being facetious about it, but they seemed to understand that a large number of those jobs were not available to them immediately and that there were very few of them that paid anything near what they were getting at the moment. They asked us if we would research that for them, and we have, and we have found and we are putting together, in fact I suspect the letter is gone to the president of the MFL, that particular portion of the meeting we have assessed the values of the jobs, the permanency, how quick they could get them, and I think at this particular time, the union had some misunderstanding of the situation. All the jobs aren't well-paying, but if I can just go from memory, they ranged from \$4.00, 4.50 up to about \$10 or \$11 an hour. That was the first situation.

The other was the pension rights and values to the employees, and it was mentioned at that meeting that in fact we had done something reasonably substantial as it relates to the Swift's operation and they were certainly very concerned and hoping that

we could do something in addition to what presently was in place with the pension plan for that particular plant, keeping in mind, Mr. Speaker, that the union themselves had negotiated the pension plan that was in place at that particular moment.

MR. SPEAKER: Order please. May I suggest that the questions should be fairly brief and the answers should also be fairly brief. The Honourable Member for Churchill.

MR. COWAN: Mr. Speaker, I thought for once I had asked a fairly brief question. I would ask the Minister if he can indicate where he got his figures that he gave to us earlier, that at the time of that meeting, 50 to 60 of the employees who were losing their jobs because of the closure, had found employment. At the same time, I have a letter from Mr. R. G. Dale, the chairman and chief executive officer of Maple Leaf Mills Limited, and I might add that the information in this letter corresponds with information which is available to the joint Manpower Adjustment Committee which is working on that particular closure at this point, and that according to their information, both parties information, only 25 new jobs have been secured as of February 2nd, 1981, and I can confirm that those are the statistics as they stand today for the approximately 120 employees who were losing their jobs. That does not take into account of course those employees, those 30 some employees, who were staying on at the operation.

MR. MacMASTER: Mr. Speaker, we have the Member for Churchill with his figures from a letter that is outdated which is typical of the position so often taken by the members opposite. The latest figures are that 28 people are being retained; 6 have accepted relocation; 2 are normal retirement; 9 are early retirement; 3 have resigned; 1 is on a long term disability; 33 have obtained employment through the committee; 2 others are on a retraining program; 4 others have been relocated; there are 8 others who have said we don't need your help we can do just fine by ourselves, thank you, as a lot of people do; 4 others are going into a business venture; 10 more jobs are expected, hopefully to be filled very shortly, leaving approximately 40 people which is of great concern to ourselves and the committee.

MR. SPEAKER: The Honourable Member for Churchill with a final supplementary.

MR. COWAN: Thank you, Mr. Speaker. I might have to note that the Minister's figures that he read me that he said were updated, and that mine were outdated, were almost exactly the same as those provided by Mr. R. G. Dale in his letter to me earlier, the only difference being that he says 33 have found jobs, when Mr. Dale says 25 have found jobs, and I think the committee says that less have found jobs. My question to the Minister . . .

MR. SPEAKER: Order, order. Does the Honourable Member . . .

MR. COWAN: . . . Mr. Speaker, is if he can indicate why he gave us a figure of 50 to 60 people having found new jobs, at the time of a meeting

which was held in January, and yet the information he gives us today shows that number indeed had not found those jobs; where it is he had gotten his information concerning the numbers who had found jobs during the January meeting?

MR. MacMASTER: Mr. Speaker, I would ask the Member for Churchill to check Hansard. I think Hansard will say that I didn't have the figures in front of me at that particular time, and I was taking a guess at it or a guesstimate at it. If they wish to check Hansard they will find that. If they wish, Mr. Speaker, to have Ministers refuse to answer questions until they have the precise information in front of them, that's fine. The information that I have given now is as correct as we think it can possibly be.

MR. SPEAKER: The Honourable Member for Roblin.

MR. J. WALLY McKENZIE: Mr. Speaker, to make sure that the Honourable Minister of Labour earns his salary today, I have a question for him. I wonder, Mr. Speaker, with respect to the employees serving liquor in licensed premises in the province, do any other provinces in Canada have similar legislation with the two tiers of minimum wages?

MR. SPEAKER: The Honourable Minister of Labour.

MR. MacMASTER: The question is in relationship to the differential for serving liquor, and yes, Ontario has a differential of 50 cents keeping in mind, Mr. Speaker, that in Manitoba ours is 20; Ontario's is 50; Quebec's is 65; the unions in the City of Toronto have negotiated themselves a differential of \$1.54; and in one of the finest union towns in Canada called Sudbury, the differential there is about \$1.22, negotiated by the unions.

MR. SPEAKER: The Honourable Member for Roblin with a supplementary.

MR. McKENZIE: Mr. Speaker, I would like to ask the Honourable Minister of Labour if there are other situations in Manitoba that a similar procedure is followed, that there is a differential being paid at the minimum wage level.

MR. MacMASTER: Yes, Mr. Speaker, there are differentials besides the government one of 20 cents, there are differentials negotiated by unions here in the City of Winnipeg of 90 cents going up to \$1.00, and in other areas of the province, 30 or 40 cents, negotiated by unions.

MR. SPEAKER: The Honourable Member for Roblin with a final supplementary.

MR. McKENZIE: Mr. Speaker, I wonder if the Minister of Labour would be a little more specific about the Manitoba situation.

MR. MacMASTER: Mr. Speaker, there was a recent settlement with the union here in Winnipeg that took the differential for those serving liquor against others from 90 cents up to \$1.00; in The Pas, Manitoba, with the IWA, the International Woodworkers of America the negotiated differential there is 50 cents.

In Flin Flon, negotiated by the Manitoba Food and Commercial Workers, it's 39 cents and it's going up to 44 cents. The President and Executive Director of that Commercial Workers' Union is the same gentleman that sits on a Minimum Wage Board who recommended in a minority report that we do away with it. So on one side of the coin, Mr. Speaker, we're getting the recommendation to do away with the differential; on the other side the same person making the recommendation is negotiating a differential.

MR. SPEAKER: The Honourable Member for Fort Rouge.

MRS. JUNE WESTBURY: Thank you, Mr. Speaker. My question is to the Attorney-General. Would the Minister advise whether he has conducted an investigation into the report that a man accused of attempted abduction and committing an indecent act, the alleged victim being an 11 year old girl from the Minister's constituency could have had charges dropped when it came to court because a signature had not been placed where it should have been and the six month time limit had elapsed?

MR. SPEAKER: The Honourable Attorney-General.

HON. GERALD W.J. MERCIER (Osborne): Mr. Speaker, I have discussed that matter over the telephone with Mr. Young, the father of the 11 year old girl. I've received from Mr. Young a detailed letter outlining his concerns and that is under review in my department, Mr. Speaker.

MRS. WESTBURY: Another question, Mr. Speaker. I wonder if the Attorney-General has been advised that a fourth girl has been suspended from playing hockey, with a probable suspension of her coach and team for the rest of the season.

MR. MERCIER: No I have not, Mr. Speaker. As I indicated yesterday, the Human Rights Commission as of yesterday had received complaints only in respect of two girls.

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

HON. GARY FILMON (River Heights): Thank you, Mr. Speaker. Yesterday my colleague, the Honourable Minister of Health, took as notice a question by the Honourable Member for Fort Rouge. The question was, are we prepared to say that we will disclose the names of restaurants outside of the inner city which fail to comply with cleanup orders from Health Inspectors.

I can confirm, Mr. Speaker, that meetings have taken place between city officials and representatives of my department with respect to standardization of city by-laws and the provincial regulations respecting health and sanitary standards in restaurants. I can also inform members of the House that the present practice of our department is not to disclose the names of restaurants who are in violation of our regulations, except where there is blatant failure to comply and where prosecutions are being proceeded with or are intended to be proceeded with. I can also add, Mr. Speaker, that any decision with respect to

harmonization of the disclosure procedures between the city and the provincial regulations, will await further discussion between officials of my department and, of course, a final decision by City Council on the matter, which is pending. Also in confirmation, Mr. Speaker, a meeting is forthcoming between officials of the Honourable Minister of Health's Department and mine and city people with respect to this matter.

Finally, a second supplementary. The Member for Fort Rouge asked that we become familiar with the practice in Edmonton where there is full disclosure and I can confirm that we have the information on this and it will be taken into account in our future discussions.

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

MR. CHERNIACK: Thank you, Mr. Speaker, and further following on the question, the response by the Minister for Consumer Affairs, I'd like to address the Minister of Health, who having stated yesterday, that he has not received an exclusive set of recommendations from his department regarding the anomaly just referred to, and having stated also that he can ask his department for a recommendation, I would ask the Minister if he intends to ask his department to bring forth recommendations to him so that he can act on them.

MR. SPEAKER: The Honourable Minister of Health.

HON. L.R. (Bud) SHERMAN (Fort Garry): Yes and no, Mr. Speaker.

MR. CHERNIACK: Mr. Speaker, since I was afraid that my question might have been repetitive, and wasn't obviously, it appears now that the Minister's contradictory response is of help to him only as a self-serving answer and not to the people of Manitoba or particularly of Winnipeg who would be caring about this kind of response.

MR. SHERMAN: Mr. Speaker, I'm not sure whether that was a question or not, but the Honourable Member for St. Johns knows full well that I answered the Honourable the Leader of the Opposition yesterday and you ruled on that matter. I answered the Honourable Leader of the Opposition in saying that yes, certainly, we were seeking and I was seeking recommendations from my department, but that they would not be final or conclusive or necessarily influential decisions. We have tripartite discussions, in a sense, going on in this matter. I am seeking advice from my department, from the department of the environment and from the City of Winnipeg. We're working collectively on the matter so that whether or not my department makes specific recommendations does not provide us with the avenue necessarily for a solution.

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

MR. SAMUEL USKIW: Mr. Speaker, I would like to ask the Minister of Agriculture given the fact that a member of parliament, a conservative member, has indicated publicly that the issue of the Crow rate is

going to be decided fairly soon, and given the fact that the Minister as late as yesterday was not in a position to indicate a position on the part of the Government of Manitoba, I wish to ask him whether or not he will be making a submission to the Government of Canada on that question fairly soon.

MR. SPEAKER: The Honourable Minister of Agriculture.

HON. JAMES E. DOWNEY (Arthur): Mr. Speaker, I see in this morning's paper that the Prime Minister has made a statement that is somewhat surprising. He has indicated he's not prepared to move on the issue of the Crow rate until the western provinces go forward with a recommendation on what they would like; somewhat inconsistent with his approach to the rest of the changes that he's proposing in Canada as far as the Constitution is concerned.

MR. USKIW: Mr. Speaker, given the fact that the Minister of Agriculture for Manitoba has indicated that the Prime Minister has asked for an opinion from the provinces, of the three prairie provinces that is, from the governments, is he going to make a submission so that that opinion can be conveyed to the Government of Canada?

MR. DOWNEY: Mr. Speaker, I believe that the Prime Minister made reference to the fact that he would expect the input to come from the Premiers. I do not know whether that subject will be on the Premier's agenda the upcoming meeting that will be held in Thompson.

MR. USKIW: Well, Mr. Speaker, I don't know whether the subject matter is going to be on the Premier's agenda, but we have the Minister of Agriculture here, Mr. Speaker, that ought to have some position and we have not been able to get him to comment one way or the other on what position he is taking with respect to that issue.

MR. DOWNEY: Mr. Speaker, the position that this province has taken has been stated many times, that we do not want to see any change unless the benefits of those statutory rates are retained for the farmers of western Canada.

MR. SPEAKER: The Honourable Member for Lac du Bonnet with a fourth question.

MR. USKIW: Well, Mr. Speaker, I wish to ask a question of the Minister of Municipal Affairs. I have a copy, Mr. Speaker, of a document that was mailed to all of the Reeves in Manitoba, but it's mailed in the name of the Minister of Municipal Affairs, but the content is from the Department of Finance and the Conservative Party of Manitoba about how they view the economic conditions in Manitoba and the policy position of the Conservative party. I don't know whether or not the government is now taking a position that the public ought to be financing that kind of propaganda. I know, Mr. Speaker, that we are now looking in a different way on how to finance political parties, but I want to ask the Minister of Municipal Affairs whether, in the future, he would be prepared to also ask the New Democrats if they would like to insert a staffer into a Department of

Finance envelope that might go to the reeves of all the municipalities as well?

MR. SPEAKER: The Honourable Minister of Municipal Affairs.

HON. DOUG GOURLAY (Swan River): Mr. Speaker, it was obviously time to get some positive facts out to the mayors and reeves in the province and I took it upon myself, in concurrence with the Minister of Finance, to send a financial report and some real positive steps and programs and policies that have taken place in the past three years.

MR. USKIW: Mr. Speaker, I don't mind, I suggest to you, Sir, that I am quite prepared to have public financing of political parties. I just ask the Minister whether, in the next issue, he would include the views of the New Democratic party as well?

MR. SPEAKER: The Honourable Minister of Fitness and Amateur Sport.

HON. ROBERT (BOB) BANMAN (La Verendrye): Mr. Speaker, several days ago the Leader of the Opposition asked several questions with regard to CCIL, and on a point of clarification, at that time I mentioned that we had reduced our security by some \$600,000 on our guarantee. That \$600,000 represents the figure of the three prairie provinces. Our provincial share of that was about \$280,000.00.

MR. SPEAKER: Order please. The time for question period having expired, we will proceed with Orders

The Honourable Minister of Finance.

TABLING OF REPORTS (cont'd)

HON. DONALD W. CRAIK (Riel): Mr. Speaker, I wonder if I could have leave to table a report that I should have tabled under the Ministerial Tabling of Reports.

MR. SPEAKER: Has the honourable member leave? (Agreed)

MR. CRAIK: It's the Report of the Manitoba Forestry Resources, the financial statements for the year ending September 30, 1980.

ORDERS OF THE DAY

MR. SPEAKER: The Honourable Government House Leader.

ADJOURNED DEBATES ON SECOND READING

MR. MERCIER: Mr. Speaker, would you call Bill No. 3 standing in the name of the Honourable Member for Logan.

BILL NO. 3 — AN ACT TO AMEND THE LEGISLATIVE ASSEMBLY ACT (2)

MR. SPEAKER: The Honourable Member for Logan.

MR. WILLIAM JENKINS: Thank you, Mr. Speaker. I wish to say at this time that I personally have no

objections to this bill proceeding to Committee of the Whole House. There are some questions perhaps that other members of our caucus may wish to raise at this time and also raise in Committee of the Whole but, speaking for myself, Mr. Speaker, I have no questions at the present time. Some questions may arise when we get to clause-by-clause discussion of the bill but at this time I am prepared to let the bill proceed to committee. There may be other members on this side of the House that wish to speak.

Thank you, Mr. Speaker.

MR. SPEAKER: The Honourable Member for Inkster.

MR. GREEN: Mr. Speaker, there is an expression in the legal profession that hard cases make bad law and that laws that are designed to deal with a situation that arises suddenly and where people are not thinking in terms of how that law affects every situation that one can contemplate under it, are laws which usually come back to haunt the people who enact them.

Mr. Speaker, the fact is that any citizen in society could get into difficulty, and many people have gotten into difficulty, to the extent, Mr. Speaker, not of having to serve five years in prison, but to the extent of being executed, wrongfully executed. Some 50 years after the event the Governor of Massachusetts pardoned and completely vindicated two people who in 1927 were executed for a crime that they were alleged to have committed in 1921. And there was no undoing it, Mr. Speaker. There was a man in France by the name of Dreyfuss who went to Devil's Island for years for a crime which he did not commit. And we, in society, Mr. Speaker, are imperfect and I don't, by any stretch of the imagination, suggest that I or anybody else would be able to govern in a way, when this kind of injustice did not occur, it is impossible in many respects, sometimes, to avoid them. But when people see them coming, at least those who see should fight.

We are dealing with a section, Mr. Speaker, which says, and says retroactively because nobody thought of saying it before, indeed in the discussions that we had we moved in the tendency of getting rid of these sections. The Member for Fort Rouge has pointed out that there is still one in the City of Winnipeg Act and I remember that when we enacted the City of Winnipeg Act we said that the first thing that we do would be to get the legislation in place and that we would look at sections which we found to be a problem, that section was a carry-over.

But when the Municipal Act came up and when various other Acts came up, we started to take out the disabilities with regard to serving and said that the public will decide. Now there stands before us a statute which says that if the Attorney-General, or myself, or any other member on this side, was charged with an offence — and let us assume that the offence is manslaughter, second degree murder, because strange as it may seem, Mr. Speaker, most people who commit murder have never committed a crime before, and the person most likely to commit the crime of murder is generally a first offender, a person not of normal criminal tendencies, if he's going to commit a crime it's usually murder — a person is charged with murder and convicted, and convinces an appeal court to let him out on bail,

which generally would not happen. Generally would not happen. He is still attempting to establish his innocence.

Now, Mr. Speaker, one such person may decide that I am not going to try to maintain my normal position in society while I am facing this charge. I think that possibly murder is not as bad an example to use, because there are people out on bail at the present time who are charged with murder. I believe that Mrs. Harper was out on bail. Is she not out on bail? —(Interjection)— She was out on bail. So it's possible to be out on bail and to plead not guilty and to try to establish her innocence.

We're passing a law, and it ranges not nearly murder, any crime for which a penalty of over five years can be given; in trafficking there's a minimum of five years, five years or more. Excuse me, seven years. Trafficking is a minimum of seven years in jail.

One such person, and I think that some members on the other side think that's the more honourable thing to do, would resign and say that I will not subject my colleagues to the embarrassment of my presence while I am fighting this case. Another such person and, Mr. Speaker, I happen to think that if I was innocent I would be such a person, I would say it is no embarrassment to me, it is no embarrassment to my colleagues that I, an innocent man, who had been convicted and am appealing my sentence, I'm going to play my normal role in society. I believe that I am such a person, that I would not resign, that a resignation would be taken as some type of admission of guilt.

Now putting aside the personality involved, what is causing us to bring in this section? How is it that the Province of Manitoba has been able to exist between 1870 and 1970 without a piece of legislation of this kind and survive, and would it not survive for another 100 years if — dare I say it, Mr. Speaker, dare I say it — the Member for Wolseley was sitting here now deliberating with the rest of us while he is appealing his conviction and saying he is innocent. Is that a greater problem — and forget for a moment, I've said the unmentionable — but is that a greater problem? Weigh the two problems; One, that a convicted person who is appealing, while he is free on bail, is trying to play a normal role and who can ultimately be thrown out, in any event, by his constituents; that's one problem; and the other problem is that an innocent person has been prevented from playing a normal role while his conviction is under appeal. The members here for some reason, Mr. Speaker, have said that it is a greater problem to have that person play a normal role than to have him subsequently found innocent and have been thrown out of the Legislature while he is appealing. In what way did democracy suffer when a person who is charged with an offence sat here for a full year while that offence was under review and while we were waiting to see whether he was going to be convicted or not? As a matter of fact, Mr. Speaker, the embarrassment is that he moved several resolutions which were unanimously approved by the House. Isn't that a peculiar thing?

Now, Mr. Speaker, do I have to underline to the members that I have no brief for Bob Wilson; that I want Bob Wilson out of the House; that I want the people of the Province of Manitoba to throw him out

of the House; that I voted against Bob Wilson, no, I shouldn't say that, I voted for somebody else, but that I wouldn't have voted for Bob Wilson; that I find myself almost always in disagreement with Bob Wilson; that I would desire with all my might that he be replaced by a member with whom I am more in agreement. But I would not use the law that he was convicted of a criminal offence which he is now appealing to have him not sit in this House.

Mr. Speaker, I want to indicate what the law has done in several cases. In 1921, or in the early twenties, three people who were the forerunners of the New Democratic Party, the CCF, the Independent Labour party, were elected while they were in jail, elected by the public while they were in jail.

MR. LAURENT L. DESJARDINS (St. Boniface): I think that Camillien Houde too.

MR. GREEN: Pardon me.

MR. DESJARDINS: I think Camillien Houde too.

MR. GREEN: My friend, the Member for St. Boniface said Camillian Houdewas elected while he was in prison. I believe that Louis Riel was elected while he was a convicted felon, that I'm not certain of. There are historians here. The Member for St. Boniface isn't confirming it so I'm not certain.

But what is the danger, first of all, of letting the electorate decide and ultimately they will decide; or secondly, if his presence is available. Because under this newly conceived section, his presence could be available and I'm not really of a firm mind about a person who cannot attend because he is not out on bail. I still rather hope that person would have the courtesy to resign, not because he is admitting guilt, but because he would say that I cannot represent my constituents from where I am; I'm not guilty.

At least it gives him an out, but the Member for Wolseley if he resigned he would be resigning on the basis that he has done something wrong which is contrary to his position. Now, I don't know whether he is guilty or innocent. I know that he has been convicted; that doesn't impress me that he is guilty. Does it impress honourable members that he is guilty because he's been convicted, because we provide for two appeals from that conviction. I would give a person the last benefit of the doubt and after that I would give them a benefit of a doubt. Truscott was convicted. To this day I believe Steven Truscott was innocent, innocent and was convicted.

So what is the excitement? I've heard some say that they got phone calls, how can this person sit in the House? Well, it seems to me if you believe that a man is entitled to run the gamut of those procedures which are made available and he is physically available that you can say that. I mean I received some phone calls and I said to the people, I'm not a friend of Bob Wilson; I am not a supporter of Bob Wilson . . .

A MEMBER: Admirer.

MR. GREEN: I'm not an admirer of Bob Wilson but I like to believe that I'm a defender of the rights of citizens, more of a defender than those people who are now preaching for an entrenched Bill of Rights. The same people who preach for an entrenched Bill

of Rights would kick a member out of the Legislature because he's been convicted of an offence, which shows you that the entrenchment mentality does not guarantee rights. The same people who vote for an entrenched Bill of Rights would vote in favour of letting a doctor take my blood without my consent and send it to a policeman, which shows that the mentality which militates in favour of an entrenched Bill of Rights does not militate in favour of rights.

Now there is another anomaly here, Mr. Speaker. If a member cannot sit, it seems to me that there should be a by-election, that we are not playing a game here. A man who cannot sit cannot represent and there should be a by-election. Well, someone will say, well, you're not even giving him the chance to fight out his appeal before you say there should be a by-election. Mr. Speaker, I would give him both chances but I certainly wouldn't say you can't sit and yet the constituency is represented and then say, he is representing the constituency but he won't be paid because he didn't sit. Mr. Speaker, how many times have I heard my honourable colleagues say, sitting in the Legislature and voting is not the mark of an MLA, you do a lot of other things. Oh, as a matter of fact, Mr. Speaker, they say this most when they are talking about salaries. Yes, I have heard it numerous times. I have heard it said when we are talking that we only work for four months and I didn't think it was really that bad, to get paid, what is it, \$20,000 to \$25,000 for five months work. They said it's not five months work, it's year round work and they phone me in the morning and they phone me in the afternoon. I work 12 months a year. You're going to pay a man nothing who works 12 months a year.

The people who are passing this legislation say that they will let it go through. And, Mr. Speaker, I am not an advocate of Bob Wilson, but he does work. I mean I sit next to his office. He is there more than I am and I gather he is trying to do what the First Minister said and that is represent his constituency. And when I asked the First Minister, who says the seat is not vacant, that the member is still a member and is expected to do everything except vote and come into this Legislature, I asked him what you are going to pay him for being a member, by the way I don't agree that the person who's seat is declared vacant should be paid. I don't believe the seat should be declared vacant but if it is declared vacant, and I imagine that Mr. Wilson is working under the strictures that the First Minister set out, then it's vacant, there should be a by-election.

MR. DESJARDINS: But they don't want that.

MR. GREEN: Oh no, I don't think it should be vacant.

MR. DESJARDINS: No, but they don't want an election.

MR. GREEN: Well, my friend, the Member for St. Boniface says they don't want an election. Then the members of this House are going to have to examine their consciences because when I asked a question as to whether the member will get paid the answer was, from the First Minister ironically: "Oh, that's up to the Members of the House". That was his answer. Since when did the First Minister be so

accommodating in terms of saying that this is a total decision. The First Minister, who I respect for wanting to govern, and who knows what he wants and says what the Government is going to bring in showed remarkable lack of initiative in this question, Mr. Speaker. Because what is the Government position as to whether a member who is still a member, whose seat is vacant, shall be paid, and now we have the Government position. The Government position is that he should not be paid.

Now, Mr. Speaker, I happen to agree that a person who's seat is vacant should not be paid. In other words if you pass 19(1) I'm going to have to go along with not paying the balance. At least I think I will, that's my present thinking. Maybe other members are going to convince me that this person does a lot of work. He comes to his office; he serves his constituents and therefore he should be paid. I think that if you pass 19(1) the seat should be vacant. If you don't pass 19(1), a man should be able to do all his work, which includes the coming into the House. And if he does all his work he should get all his pay. And if he has done a terrible thing the law will take its course; and if he has done a terrible thing, Mr. Speaker, the populous will tell him about it; and if he has not done a terrible thing he should be permitted to go to the court of last resort, he should be able to go.

And I'm not saying he will go but I will give you examples of when it was done. There used to be a law, Mr. Speaker, in the British House of Commons, that you had to swear an oath on a Christian Bible. A Mr. Rothchild was elected to the House of Commons and when he came to the House he did not swear the oath because he was a Jew and he was not permitted to take his seat in the Commons. They called a by-election and he ran in the by-election and the people elected him again and he refused to take it, despite the fact that he had been declared illegal that you cannot sit. He went back to the public and he public elected him again and I believe that this happened more than once, Mr. Speaker. And finally, the House of Commons came to its senses and permitted him to take an oath which was befitting of his conscience. Interesting, Mr. Speaker, that they did it without an entrenched Bill of Rights. They did it because they were forced by somebody with the will, the courage and the integrity to say that I am going to put myself on the block on this issue, and that's how the world moves, not by the entrenchment of rights which then people say are available to me and nobody has to do anything about them; that now these rights are guaranteed.

Mr. Speaker, hard cases make bad law. What is the reason for this bill? Did any of you when you ran for election think there should be such a bill? Did anybody go to the public and say I'm going to pass a law that says when somebody is convicted of an offence he won't be able to sit in the Legislature? Who thought of it? It was Mr. Wilson's predicament. Now, I don't envy Mr. Wilson, none of us do. He has a problem. There are laws designed to take care of it. They were in place before this legislation was passed and I want, Mr. Speaker, to make it perfectly clear that the Conservative Government, and those who voted in favour of expelling Mr. Wilson, did not do so on the basis of any existing law. Nobody has tested that Criminal Code and the motion by which

Mr. Wilson was expelled makes no reference to the Criminal Code and, in fact, prevents Mr. Wilson from going across the street to the Law Courts, getting a declaration that the Criminal Code does not apply; he would still have been kicked out by the members of this House. And has been kicked out of this House on the basis of no law; on the basis of the fact that suddenly 46 people vote: Aye, your out.

And look how it was done, Mr. Speaker, and it's well worth going back to. A motion was made in the middle of a member's speech, a substantive motion was made in the middle of a members speech; it was not placed on the Order Paper; there was no first, second or third readings, no notice was given. It was ostensibly based on the fact that there was a law which disqualified the member. If there was a law which disqualified the member and he couldn't sit here, Mr. Speaker, it became known throughout the proceedings of the debate that that was not the basis of the motion because it couldn't be the basis of the motion. The Legislature has no right to interpret the law. Once you say you are doing it because of a law then there has to be a judicial opinion and I'm not of the view, Mr. Speaker, that we need a judicial opinion to kick somebody out, indeed, I go the other way. I say that if the members of the Legislature wish to do that then no judicial body can stop them. I agree that you have the right to do it but not if you say that you're following a law. You can do it because you say that you don't want the member to sit here, not because of a federal law but you don't think a convicted felon who has been sentenced to over seven years and who is out on bail should sit in the Legislature, regardless of the federal law. And that's what was ultimately done. The First Minister made that quite clear and said that he will bring in a law in the future and do it retroactively and that's what's happening.

Now, Mr. Speaker, I think that it's well sometimes to sit down and examine yourself. We have rules governing this House, none of those rules apply, nobody put a motion on the Order Paper, nobody passed a bill. A person got up in the middle of a speech, moved a resolution and the resolution was entertained immediately and the member was expelled.

Mr. Speaker, we sometimes observe from afar and we see a mob of people in a movie going to lynch somebody. They believe with all of their might that what they are doing is right. They believe that person is a terrible person; they may be right that he is a terrible person, he may have done horrendous things; they are very concerned that some lawyer is going to play a trick and get him out and they say we will not let this happen, we are right we are going to perform that lynching. And they do it, Mr. Speaker, and we say those people did wrong. Don't we all say those people did wrong? I don't know anybody in this Chamber who would not agree with me that we look at those people and say they did wrong. But we have a comfort, Mr. Speaker, we say it was those people. Now who are those people? Generally, Mr. Speaker, they are farmers, they are grocery keepers, they are lawyers, they are moulders, they are stationary engineers, they are optometrists, they are cattle rustlers, they are newspaper — not rustlers cattle owners, sometimes they come together — they are TV announcers or

newspapermen, they are, Mr. Speaker, football referees, they are normal people, good people with families, husbands, wives and families, who thrown into a particular situation do an irrational thing.

We are now able to look at this thing more calmly at least there's a bill on the Order Paper; we will give it First or Second Reading I presume and I want, Mr. Speaker, to indicate that I will not support this bill. I will vote against this bill on Second Reading, in principle. And, perhaps, although I do not think it likely, on reflecting we will be able to stop ourselves from what we are doing and I hope that that is so although I don't look forward to it with very much confidence, partly, Mr. Speaker, because I happen to be one who was against it. Apparently that has had some effect on how people have voted. I regret that.

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

MR. CHERNIACK: Thank you, Mr. Speaker. I want to state my position on this issue. I remember participating in the debate that took place in December. I recall well the unanswered question, the challenge made to your ruling as to whether or not that member would be permitted to speak. I regret to this day that there was no resolution of it because of the fact that that member withdrew and therefore there was no ruling on it and I regret it very much. Especially do I regret the manner in which you were told, in no uncertain terms, Mr. Speaker, that you'd better reflect carefully on the decision that you were about to make. That is now part of the history.

Today we're dealing with another chapter of that history and I just want to state my position. I believe that a person charged is innocent until found guilty, I don't think that has been questioned in this bill. I believe that a person when found guilty is considered guilty unless it is declared by a court that that person is innocent, and therefore, there is a hiatus period between the conviction and the final adjudication from the final appeal authority during which time there is that doubt, but I think that properly that person has been declared guilty and that's why I supported the concept last December that that person should not form part of the Assembly. After the appeal has been exhausted I believe that the seat should be declared vacant and that there must be a by-election. I was planning, Mr. Speaker, to bring in an amendment to the bill that I knew was on its way and which, as far as I knew, had no intention to declare the seat vacant, to bring in an amendment to that effect. The reason I didn't think it would contain that is that the resolution, as it was brought in and discussed and debated last December, did not deal with that aspect and I thought it was an anomalous and an impossible position to leave a person as a member of the Legislature for the balance of the Legislature and not be permitted to participate in debate. I thought then that that ought to be part of the law and I see it is because it now says: that upon conclusion of the time for appeal and if the conviction is upheld then the member is disqualified as a member and his seat is vacated; and I think that's an essential addition to the December concept proposed by the government.

There are some questions one would ask. Why five years? Or if the conviction is a serious conviction, suppose it carries with it a fine of \$1 million and a

two year sentence or a sentence that is not involved with going to jail, I think that that ought to be thought through, clarified, and I don't care what it is but it ought to be. The important to me is that when a person is convicted after his election his electorate has no opportunity to judge what they would feel about a person who is physically removed from being able to represent them and that is why I accept that concept, that a person who is jailed should not have the right to continue to represent a constituency.

But what bothers me very much is the Act which we have which is the — the word escapes me for the moment — The Electoral Act, thank you, denies a person the right to run for the Legislature and that I think is wrong. The Member for Inkster mentioned when we brought in The City of Winnipeg Unification Act we brought it in on the basis of the law as it was and wanted to look at it again and I'm sorry we haven't really looked at these — we did deal recently with elections, I mean in the last session — I'm sorry we did not deal with this aspect.

I don't agree with the idea that a person in jail loses the franchise because that person is in jail. I think that that's an artificial thing that a person convicted of many crimes may not be in jail and would have a right to vote, but a person who is in jail is not allowed the right to vote and I think that's wrong, I think it ought to be changed. That denial of the right to vote carries with it the denial of the right to run for office because your qualifications to run for office carry with them the requirement that you be entitled to vote at the election, and therefore, a person convicted cannot offer his name to the electorate of a constituency to say: even though you know I'm in jail, even though you know I've been convicted, nevertheless I want you to support me by voting for me. I think that that is a very serious denial of the rights of a person and I think that ought to be corrected.

I was going to, Mr. Speaker, tell you quite openly, I was going to go back to our caucus and suggest that we consider this aspect in this bill until I realized that it was the wrong Act that we were dealing with. So that is still an aspect that I want to explore and I hope I will get some encouragement in this House and elsewhere to the idea that a person in jail should be entitled to vote, and therefore, automatically entitled to present his name for election and, if elected, of course would have the full status because he will have been elected after the constituency of the electorate knows the impediment under which he would be operating. So that is the concept I approach to this, Mr. Speaker, and although I have a serious problem about it I've made my decision.

MR. SPEAKER: The Honourable Member for Fort Rouge.

MRS. WESTBURY: Yes, Mr. Speaker. I'm not going to talk for very long on this but I do have a couple of concerns, one of which has been expressed by the Honourable Member for St. Johns; what happens if someone is convicted for three years or five years, can he receive his pay, what's the difference can he attend the House one day and then be in jail and receive his sessional indemnity? Now I heard on the radio that it would be up to the Legislature to make that kind of a decision but I can imagine circumstances in which the Legislature wouldn't be

sitting and this kind of thing. So I hope that the Attorney-General has looked at that.

I know reference has been made also to The City of Winnipeg Act. I would hope that the intention of the government is to make the penalties uniform for the two levels of government under its control. We have the one penalty before us now for a Member of the Legislature. The City Council, and I frankly am inclined to prefer this one, the penalty for a City Councillor which was used a number of years ago, I don't know if the Attorney-General was a member of the City Council at that time or not but a member of council was convicted of shop-lifting and received I think a suspended sentence but because the Act says: "Where, after the election of a person as a member of council, he (a) is convicted of any indictable offence upon conviction of which a person is liable to imprisonment for five years", and that's a very different penalty from the one we have before us today.

MR. GREEN: It's much worse.

MRS. WESTBURY: The Member for Inkster says it's much worse, I don't know I think that's a point we could all debate too. It's different and I think they should be the same. If in fact somebody who is convicted of a crime for which the penalty can be more than five years should we in fact be counting it as not effective because he got a suspended sentence for one thing or another regardless of what the crime is? So I would hope that the Attorney-General will have a look at that and if necessary come back with some changes to one or the other of the Acts.

MR. SPEAKER: The Honourable Member for Rossmere.

MR. VIC SCHROEDER: Thank you, Mr. Speaker. I rise in support of Bill 3. I believe it sets out what the law should be, that is that a person until convicted should be entitled to sit; if one is convicted of an offence carrying a penalty of five years or more and at that point the individual should not be entitled to sit until the matter is completely adjudicated; and if the conviction is, at some point, overturned he or she should be entitled to come back into this Chamber.

However, I believe that in this particular case, and in dealing with the situation as to why we are here, I think the government has acted incorrectly — I refer to Section 682 of the Criminal Code which is the law of the land until tested. It is presumed to be good law unless it is successfully challenged in the courts, and Section 682 says, "Where a person is convicted of treason or of an indictable offence for which he is sentenced to death or to imprisonment for a term exceeding five years and holds at the time he is convicted an office under the Crown or other public employment the office or employment forthwith becomes vacant"; and it ends in Section 4 "where a conviction is set aside by competent authority any disability imposed by the section is removed". I believe, Mr. Speaker, that this section is very clear — that on conviction a Member of this Legislative Assembly is no longer a member. I believe that that law should be changed, as I said previously. I believe that his right to sit should be suspended until

litigation is completed but I believe that the law now is very clear that a member on conviction and sentencing to more than five years is no longer a member once that sentencing is completed.

If the Attorney-General was unsure as to the effect of Section 682 then it was up to him, as the Chief Law Officer of this province to take the matter to the courts. If he was not unsure then he should have gone by the wording of the Criminal Code and there should have been no question, the Wolseley seat should have been vacated, there could have been a by-election by now, we could have a new member by now and Wolseley could be represented in this House at this point and time, rather than having a member under this section, or under what the Legislature previously passed, in limbo. A member using an office in our Legislative Chamber; a member, for all intents and purposes, exactly like any other member excepting that he cannot appear in this Chamber nor can he receive the income for being a Member of the Legislature. I believe the law at this point is very clear. I think Section 682 of the Criminal Code, until challenged, is the law of the land and I would suggest that the government has been remiss in its duties in this case.

MR. SPEAKER: The Honourable Member for Burrows.

MR. BEN HANUSCHAK: Yes, Mr. Speaker. I do regret that I was unable to be in the House at the time that this issue surfaced in our legislative proceedings before Christmas. The reason for my absence which I don't feel under any compulsion to explain but I would state is I had made other commitments which I had to honour, commitments which I made long prior to this government having decided to go into session in December. I must say though, Mr. Speaker, that the point cannot be overlooked that the government knew since Day One that this issue would have to be resolved. The government could have brought in its legislation to indicate to us the course of action that it hoped to pursue over two months ago, Mr. Speaker, and the government didn't do that. It didn't do that until the last couple of days and it is regrettable that now, because of all the other issues of concern to honourable members contained within the bill, there appears to be a wish and a desire on the part of members taking the entire contents of the bill into account to proceed with perhaps somewhat undue haste in the passing of the bill, undue haste because of one section dealing with respect to a convicted member — a section which I feel should deserve a bit more time of this House than I would think that both sides of the House are disposed to allow it, and that is regrettable.

I've mentioned this on other occasions, Mr. Speaker, I've reminded the government that when they called the House into session that the First Minister did indicate that it was his intention to bring legislation before the House, or to speed up the bringing of legislation before the House, in order to allow honourable members more opportunity to effectively deal with it. That did not happen. So it really makes us wonder now why we were called into session before Christmas because it didn't follow the same pattern, the same course of events as a similar session, called at approximately the same time, resulted in in 1966.

Now, Mr. Speaker, the Whip has not been called off on this bill, this is a party matter and I'm sure that all honourable members know that within party caucuses decisions are made by a majority. It is the opinion of the majority of our caucus to support this bill. As a member of caucus I will vote with caucus but I must indicate to you, Mr. Speaker, that I am most unhappy with the provisions of a section of the bill as relating to the rights or the removal of rights of a member convicted of an offence. In particular, I am even more concerned about the rights of a member whose conviction has not been finalized, who has taken steps to appeal it and the matter is in the process of appeal. I'm even more concerned about members who find themselves in that predicament.

There's a principle involved here that could perhaps apply to many other parallel situations extending beyond membership in the House as related to human rights. So again I must say that it is regrettable that I do not believe that we will give ourselves ample time to deal with some basic issues that we're dealing with in this case. However it's my hope, Mr. Speaker, that God willing, and if I should continue serving, have an opportunity to continue serving in this House, that I will find other opportunities to deal with this issue. For those opportunities I would intend to take advantage of and deal with this issue within the House and wherever else I would feel that I may have some effect or some impact on influencing the thinking of people with whom I work.

MR. SPEAKER: The Honourable Leader of the Opposition.

MR. PAWLEY: Mr. Speaker, I'd like to just place on record a few words pertaining to Bill 3. Other members in our group have spoken pertaining to our position in our decision to support Bill 3. In supporting Bill 3 however we do want to raise a number of questions with the Attorney-General, particularly in respect to the handling of this matter by the First Minister and by the Attorney-General.

We recall the debate in December when the First Minister relied heavily in his remarks to this Chamber upon the provisions of the Criminal Code. The provision in the Criminal Code was given by the First Minister as his dominant reason for the action that was then undertaken by the Government upon the appearance of the Member for Wolseley into this Chamber.

Mr. Speaker, in view of that, what concerns I think every member in this Chamber and as well, and probably most, those in the constituency of Wolseley that must indeed be most concerned about continued representation is if indeed the government, as it appeared to do, was relying upon the provisions of the Criminal Code, then why did the government not make some effort in order to test out that provision in the Criminal Code? If there is indeed doubt as to the applicability of that provision now being offered, then when the government relied upon that provision in December they should have tested that provision.

Mr. Speaker, it is inexcusable that this seat, in fact, should continue to go unrepresented. It has gone, in practice, unrepresented for many many months, many months, Mr. Speaker. There appears

to be uncertainty as to the provision in the code. We hear conflicting views being expressed and yet we have a government that could have cleared the air. And if that provision in the Criminal Code was held to be indeed valid then action could have been undertaken on an immediate basis in order to ensure, whether we agree with that provision or not, it would have been the law; in order to have opened up that seat so there could have been an election in order to ensure that there was representation in effect in Wolseley.

Mr. Speaker, I'm disappointed therefore that the people in Wolseley — it's probably now at least a year — have in fact gone unrepresented and they may very well continue to go unrepresented for dear knows how long, depending on how long the government continues to either fail to call a by-election or general election. We could indeed be ending up with a situation where he have a constituency being, in practice, unrepresented for anywhere from a year, a year-and-a-half to two years. We feel this is inexcusable, Mr. Speaker. We believe that the government could have undertaken some action in order to test out that provision, a provision that the First Minister was relying upon in his submission to this Chamber in December, but a position that for some reason yet unexplained. Despite the First Minister's reliance he failed to undertake effort to test that provision before the appropriate judicial authority. So we will be supporting Bill 3.

MR. SPEAKER: The Honourable Member for Inkster with a question?

MR. GREEN: Yes, Mr. Speaker, I wonder if the Honourable Leader of the Opposition would permit a question.

MR. PAWLEY: Yes, Mr. Speaker.

MR. GREEN: In view of the fact that the Member for Rossmere, when a person is the Premier his constituency is not often mentioned. The Member for Rossmere says that is the law. In view of the fact that the law declares the seat vacant; in view of the fact that the government position has been that the seat is not vacant, just he can't sit; in view of the fact that on a motion of quo warranto anybody can test the law; in view of the fact that the New Democratic party candidate claims that she is representing the constituency, why does not the New Democratic Party candidate take a quo warranto today to see whether that is the law and, if it is, the seat will be declared vacant and you will have your election. I am asking any citizen who feels that this person is not representing him, any citizen, I'm asking why any citizen, particularly the member who says she represents an area . . .

MR. SPEAKER: Order, order please. The honourable member has had great latitude in asking his question.

The Honourable Leader of the Opposition.

MR. PAWLEY: Mr. Speaker, the Member for Wolseley, the future Member for Wolseley, has indicated that she is undertaking every effort on her part to represent the constituents in Wolseley. Mr.

Speaker, whether or not at some point it's determined by a resident in Wolseley, and possibly action should be undertaken by a resident in Wolseley, to test the law but that does not escape the fact that the responsibility rested with the government to have tested this provision because it was the government that relied upon that provision, relied upon that provision in the submission that was made in this Chamber in December.

So, Mr. Speaker, let us not for a moment duck the responsibility, and I say this to the Member for Inkster, the responsibility of the government that relied on that position in December and failure on its part to test that provision. That provision could have been tested, whether some other person in or outside Wolseley determines to test that provision in the future, I think, Mr. Speaker, will depend a great deal on what happens here on in by way of representation pertaining to Wolseley.

So, Mr. Speaker, we are supporting the bill but there are questions that must be answered insofar as the government's handling of this matter.

MR. SPEAKER: The Honourable Member for Winnipeg Centre.

MR. J.R. (Bud) BOYCE: Mr. Speaker, before I begin I want to admit to a conflict of interest in speaking to this bill, not because I'm a resident of Wolseley, but I'm overdrawn at the bank and my bank manager anticipates a cheque will be deposited the day they cover my overdraft. So there is some pressure by members to pass this particular piece of legislation and I want to put on the record, Mr. Speaker, my view that I think that if there is fault we are all at fault because this is not just a governmental matter, it reflects on the whole Assembly, it reflects on all of us. And that I was ignorant of the Criminal Code I accept equally with others who are ignorant of that particular section, that we did not know it existed. I was tempted to apply for a writ of quo warranto after I was apprised of the existence of such instrumentality and I chose not to. But, Mr. Speaker, the very essence of this bill is in the whole realm of the concept of justice and when people argue that people should be given the franchise to vote when they are in correctional institutions, and then on the other hand say that they shouldn't hold a seat, I find some inconsistency in that position. But we have got to the point where there has been expressed differences of opinion and we sit here as legislators, we don't sit here as lawyers or teachers or preachers or referees or anything else, we sit here as legislators. Because, if that's not the case, then we should go back to the days of the mandarins or hire the best technicians that we can find in all fields and let them sit here and decide these questions.

I personally am of the view, and I think that all people should listen to the view and discuss it and whatever the consensus is we should go along with that consensus, and I'd be quite willing to do that. But for one or two people to express the view that a person convicted in a lower court is therefore guilty, that is one view, and they're sincerely held and I respect the people that hold that view. I happen to differ from them; I think that a person in law and the whole gamut should be not considered guilty as far as anything is concerned until the man or woman

has exhausted all proceedings. And the other nuances that are contained in this particular bill, Mr. Speaker, are profound questions that we have all allowed ourselves to get into, all of us, not just the government members, because I'm sure that if I had been able to approach the Attorney-General who, by the way, Mr. Speaker, was busy at the time with the inter-provincial conferences relative to the Constitutional Debate and was not available to address himself to many problems such as this. So when people start laying fault, I think we're all at fault and things like this should have better discussion than it's getting at the moment.

Now I know as King Canute that you hold back the tides, that I intend to support second reading but in clause by clause I will close the particular section.

MR. SPEAKER: The Honourable Member for Elmwood.

MR. RUSSELL DOERN: Mr. Speaker, I think one of the problems that is being confronted, on what I might describe as the Wilson affair, is that under the present resolution, as proposed by the government, or bill, but speaking on the way they attempt to resolve the issue, that they are in effect reluctant to declare the seat vacant. Now under certain circumstances I think the member discussing the specifics, as well as trying to make a general point, under whatever conditions one might look at, the member may be a dead duck but at present he is certainly a lame duck. I think that there is unquestionably some difficulty on his part in attempting to represent his people, as there is on the part of the people of Wolseley in having an appropriate representative.

Mr. Speaker, I think that the government is afraid to declare the seat vacant because they are afraid of a by-election. I think that the sensible solution to this matter would be to declare the seat vacant immediately and then if the member, who is under appeal, feels that this is the right thing for him to do he can then run in that by-election, and therefore, a person who presumes to be innocent, or suggests that he's innocent, and is nevertheless under a cloud and is technically appealing his conviction, he can then go before the people of his riding and give his case to them and make his case to them and it is up to them to decide whether or not they want that person to continue.

The government is, right now, in effect presenting the people of Wolseley with a lame duck and I say, Mr. Speaker, that is primarily because of the fear of the First Minister in calling a by-election, that the government is uncertain of their position in the province at this particular time; that they feel that they do not have the confidence of the people, nor have they resolved the problems facing Manitobans today.

All I have to do in that regard is to look at the newspapers of the week and see a picture of the Premier running up and down the country . . .

MR. SPEAKER: Order please, order please. May I suggest to the honourable member that he stick to the content matter of the subject before us.

The Honourable Member for Elmwood.

MR. DOERN: Mr. Speaker, I am attempting to deal with the manner in which the Government is

attempting to handle a problem which I say should logically lead to a declaration of a vacant seat; that's the point that I'm dealing with. I say that seat should be declared vacant and I say that there should be a by-election and I say that the reason that the Government isn't doing that is that they are afraid of calling a by-election.

MR. SPEAKER: Order please, order please. May I suggest to the honourable member that he stick to the content of the subject matter before us.

The Honourable Member for Elmwood.

MR. DOERN: Mr. Speaker, I would like to hear an answer because there will be another opportunity to debate this. I would like to an answer by the Government as to why they will not declare the seat vacant. I would like to hear the Attorney-General, or the First Minister who's piloting the bill, make the point as to why they did not include in this bill a provision that the seat could be vacated at this point in time, because I say that they are afraid of that provision. I say that they are fearful of the consequences of that action and it is because of that, because of their weak position that they have worked backwards into this particular situation. So, I say, Mr. Speaker, the people of Wolseley want representation. If they want the Member for Wolseley let them say so; if they don't want the Member for Wolseley let them say so. The only way that we will know that is to call a by-election and let them give their expressed views. Now I say that that is the only sensible position but for some reason the Government is fearful of that test of strength.

Mr. Speaker, I would like to make some other general comments, I should say specific comments to the First Minister who is piloting this bill, some of which, well I think all of which he could probably agree with. He may not have agreed with my comment that I just made but I think he might listen to these proposals. He has in here, of course, a reference to the COLA clause for members. That's something that was thought through and I think it made a great deal of sense rather than attempting to give increments on a four-year basis, or a five-year basis. This was finally incorporated and I would like to ask him when he's answering on the bill why he didn't also extend that COLA clause to his Ministers, because he is not going to follow that procedure is logically consistent, whether he is not going to create problems for future First Ministers, who will again be confronted with that problem. It was a problem confronted by Premier Roblin. It was a problem confronted by Premier Schreyer. It is a problem for our First Minister and it'll be a problem for Premier Pawley somewhere in the next couple of years. Mr Speaker, I would also ask the First Minister to consider a couple of other details that I think should have been included in the Bill and one of them I intend to specifically propose, and that is that I think a Caucus Chairman deserves an additional indemnity. I am well aware of the amount of time put in by our Caucus Chairman and I think that if one compares the duties of a Whip and a House Leader, which are significant, I think that they do infact merit additional payment for their time, but I think that a Caucus Chairman puts in probably as much time, on a yearly basis, if not more, and that work is equally important, and I think that should be added to this Bill.

The final point I make, Mr. Chairman, is that members of the Opposition are finding it difficult to carry out some of their responsibilities because of the lack of secretarial assistance and it is not workable under the present arrangements to, we have a situation where seven members in effect are sharing one secretary. That just doesn't work. We need probably double that number of secretaries, if not triple and I find that I am impeded as an M.L.A. in getting things done, in getting things typed and photostated and having secretarial assistance, which I have to add I was once used to as a Minister and have found extremely difficult to operate under as an M.L.A. There is simply not adequate service provided by the Government. Now there have been improvements made. I think our Government made significant improvements in services for M.L.A.'s and I think this Government has made some small improvements and I encourage them to continue and to listen to these reasonable requests by members of the Opposition.

MR. SPEAKER: The Honourable Member for Ste. Rose.

MR. ADAM: Mr. Speaker, I don't intend to speak too long on this particular point, but I do have a couple of comments that I would like to make and I do want to say that I do have some sympathy with the loss of rights to an individual who has been convicted, but is appealing his sentence. I feel that we are moving further to a right wing position and taking away some civil liberties of some people. So I have some difficulty with that. I will probably have to — very likely we will be taking a Caucus Position. I believe we probably have already and I will have to support my Caucus, but regardless of that I want to put on the record that I have a problem with that particular issue.

But there is another issue that I have just as great a problem with and that is the fact that we suggested this five years or more, and in the case of a Judge saying that the sentence is five years less one day. I know that this is a difficult question to resolve because we have to make a cutoff somewhere along the line because you know you can have people convicted of a criminal offence for a driving license. But, Mr. Speaker, it seems to me that the gravity of the crime of an offence such as was the case that a member of this Legislature was accused of would have been just as grave if he had been sentenced for less than five years, and the people out in the country are asking those questions. That is the questions that they say, "Well what's the difference if a man has been convicted for an offence and you know because he's been convicted for five years and one day, he's out and if he's been convicted for five years less one day he's in." That seems to be a very difficult problem that we should be looking at. I don't accept it. I can't accept that, and I know that there are a lot of people out there who don't accept it. Those are the points that I want to . . . this is the major point that concerns me and that cutoff at five years I don't know how we can address ourselves to that problem, but it seems to me that we should be addressing.

MR. DEPUTY SPEAKER, ABE KOVNATS (Radisson): The Honourable Member For Inkster.

MR. GREEN: Mr. Speaker, I don't intend to speak but I wonder if the Honourable Member would permit a question to him?

MR. DEPUTY SPEAKER: I think . . .

MR. GREEN: Mr. Speaker, I wonder whether the Honourable Member can tell me what principal of the New Democratic Party is involved here which would cause him to vote with a Caucus position that everybody will vote that a man who is convicted of five years or more and sentenced shall be expelled from sitting in the Legislature. Can the Honourable Member tell me what philosophy of the party is involved that causes the Caucus to say that nobody will vote one way or the other.

MR. SPEAKER: The Honourable Member For Ste. Rose.

MR. ADAM: Well, Mr. Speaker, if we have a free vote in this Assembly I will have to make a decision on my own principals, but if we are taking a Caucus position and there is not a free vote on this, if I can't live with it, well I'll have to exclude myself from the vote. That's all there is to it.

MR. DEPUTY SPEAKER: The Honourable Member For Inkster.

MR. GREEN: I wonder if the Honourable Member heard my question? I asked him what principal of the New Democratic Party, of which I have some acquaintanceship with, has caused him to take a position that he is bound to vote in a certain way rather than the way he feels that he would like to vote?

MR. DEPUTY SPEAKER: The Honourable Member For Ste. Rose.

MR. ADAM: Mr Chairman, I have been sitting in this House for ten years and I know we have discussed, there are issues that have come to Caucus on which the Caucus has taken a position and we have — and the Member for Inkster knows that very well, I have seen him, we have taken Caucus position on many occasions and, Mr. Speaker, we have taken Caucus positions on many issues involving philosophy and principal and we have voted in a Caucus.

Mr. Speaker, I voted against A.I.B. I voted against it and I voted against my Caucus on that particular issue. But, nevertheless I say to the member I have seen him take a Caucus position the same as anybody else on principal and I'm sure that if we look back we will find that. I have expressed my concerns with this Legislation and I have made my point and the one that concerns me the most, and I know the one that concerns the people out there the most is the fact that the five years and more or the five years and less doesn't take the seriousness of the offence.

MR. DEPUTY SPEAKER: Are you ready for the question? The Honourable Attorney General.

MR. MERCIER: Mr. Speaker, if I could make a few brief comments with respect to some of the questions that have been raised by some of the honourable members. The Member for St. Johns and

the Member for Fort Rouge and now the Member for Ste. Rose, raised the question, why five years.

Mr. Speaker, I think the First Minister in introducing the Bill referred to that question. The five years does follow along generally, the five-year term used in a Criminal Code Section. At the same time I say, Mr. Speaker, in answer to that question, and in answer to the Leader of the Opposition who said that the government relied on the Criminal Code. I say to him as I said last December and a number of other people also said, that the House has an inherent jurisdiction to expell a member for conduct unbecoming, Mr. Speaker, so that the five-year term has been used as a general legislative guideline, but that doesn't mean to say, Mr. Speaker, if a member of this Assembly commits a criminal act for which he receives a sentence of less than five years, or in fact commits an act which is not even a criminal act but maybe objectionable to the House, the Legislature has the right to expell that member. The fact that five years is used in the amendment to this Act should not mean to anybody inside this Chamber or anybody outside this Chamber that if a member of the Assembly is convicted of an offence for less than five years that there is not the possibility of his being expelled from this Assembly. Again, I say, Mr. Speaker, that the conduct which the Assembly might find unbecoming may not even be a criminal act.

Mr. Speaker, the Member for Fort Rouge also raised the question of examining The City of Winnipeg Act to make it uniform with The Legislative Assembly Act. I say to her, Mr. Speaker, that the point that I have just raised is a power that obviously the City or a municipality does not have, an inherent power to expell or suspend a member and that is a factor that we would have to consider, but I am, Mr. Speaker, prepared as a number of other members have indicated concerns to review those provisions of The City of Winnipeg Act and attempt to determine whether or not any improvements could be made in The City of Winnipeg Act.

Mr. Speaker, the Member for Rossmere, I believe made a statement that under the provisions of the Criminal Code, the Wolseley seat should be declared vacant. That was his interpretation of that Section. Mr. Speaker, I point out that this Section 682 of the Criminal Code is a conflicting section because, although it does say in Subsection 1 of that section that the seat forthwith becomes vacant; in Subsection 4, it says, "where a conviction is set aside by competent authority, any disability imposed by this section is removed." Mr. Speaker, if this section is constitutionally correct, which I would seriously doubt, but if it is, there is still this conflict within the section itself and I think Subsection 4 can only leave open certainly the interpretation that a person has a right to appeal. In any event, I don't think, in my opinion, that it is constitutionally correct. Again I repeat, it was not certainly the sole basis for the action which was taken last December. . . .

Now, Mr. Speaker, the member for Burrows raised the question the Act should not be passed hastily. I wholeheartedly agree with him, Mr. Speaker, and I think we on the government side are not going to attempt to pressure anybody to pass this Bill. If any member wishes to speak to this Bill or adjourn debate, that will not be attempted to be stopped by the government, Mr. Speaker, so I think all members

should feel free to discuss this fully and take as much time as they like.

Mr. Speaker, the Leader of the Opposition, who unfortunately is not here and the member for Elmwood, I think, descended in their speeches on this Bill to a new low, Mr. Speaker, because they have attempted to inject politics into an important matter for this Legislative Assembly. That party that purports to stand for all kinds of human rights, for all kinds of civil liberties, Mr. Speaker, is not prepared to give a member the right to appeal — (interjection)— and I find this . . .

MR. DEPUTY SPEAKER: The Honourable Member for Elmwood on a point of order.

MR. DOERN: I'm raising a point of privilege. The Attorney-General is not in fact correctly construing my remarks. I said the member can appeal, he can do anything he likes, but that the seat should be declared vacant and while he's appealing or resigning or whatever, he may still run in that seat. This has nothing to do with a denial of his right to appeal. He can appeal and he can run, the advantage being that the seat will be declared vacant. You are presenting us with neither fish nor fowl. You say a member can't sit in this House, but he can in fact, represent his seat. I say the seat should be declared vacant, and let the people decide whether or not, Mr. Chairman.

MR. DEPUTY SPEAKER: Order please. Order please. On the point of privilege, you had stated your remarks to the Honourable Member and then it started getting into a debate. I think if you want to speak on a point of privilege you are most entitled to do so.

MR. DOERN: Mr. Speaker, on the point of order. The Attorney-General did not correctly construe the remarks of myself. I did not say that the member could not appeal. I said he could appeal and he could run in a by-election.

MR. DEPUTY SPEAKER: The Honourable Attorney-General.

MR. MERCIER: I assume, Mr. Speaker, that the member had no point of order or no point of privilege here. Mr. Speaker, this is the very party that, certainly as I understand it, takes the position let us say, with a union — if a member of a union is convicted of an offence, — they don't even want a suspension from the job, but certainly they take the position that he should not be fired until an appeal is dealt with. Mr. Speaker, I suggest to them, that they are being very very political in this debate and the position that the Leader of the Opposition has taken is that he's attempting to use it for purely political partisan purposes. He's prepared to abandon any principles he may have held in the past simply for political gain, Mr. Speaker. I would urge him, Mr. Speaker, and other members of his party who have spoken in the same vein, to reflect upon the position they have taken this morning, because it's evident to me Mr. Speaker, that this is a kind of position that they have taken on so many issues in the House. They are taking positions of abandoning any principles that they have for purely political partisan

gain and are destroying their credibility, if they ever had any. If they wish to form a government, Mr. Speaker, I suggest that they should stand for some principles. (Interjection)—

MR. DEPUTY SPEAKER: Order please. The Honourable Member for Rossmere on a point of order.

MR. SCHROEDER: Mr. Speaker, the Attorney-General is completely and absolutely misstating the position that the Leader of the Opposition took. The Leader of the Opposition took the position that the law should be enforced. There is currently a law in force under the Criminal Code of this country, pursuant to which a person convicted of an offence and sentenced to more than five years is to be evicted, that he does not have a seat any longer . . .

MR. DEPUTY SPEAKER: Order please. Order please. On a point of order being raised, a difference of opinion does not constitute a point of order.

The Honourable Member for Rossmere on a point of order.

MR. SCHROEDER: Mr. Speaker, on the point of order, the Minister went further and stated that the Leader of the Opposition and the Opposition was abandoning principles. That, certainly on a point of order, is certain that when we stand up for what the law now is, that we are not abandoning our principles, and I would ask him to withdraw that.

MR. DEPUTY SPEAKER: To the honourable members, a difference of opinion, again, does not constitute a point of order. The honourable member did not have a point of order.

The Honourable Attorney-General.

MR. MERCIER: Mr. Speaker, the Member for St. Johns expressed concern about inmates having the right to vote. At the same time, Mr. Speaker, he's not prepared to give a member under these circumstances the right to appeal, without suffering any disability. (Interjection)— Mr. Speaker, I think the point has been well made.

There is only one other matter, Mr. Speaker, that I wish to comment on and that was the suggestion from the Member for Elmwood that the caucus chairman should receive an indemnity. Mr. Speaker, in view of the difficulties they have over on that side, perhaps we should pay the Chairman of the NDP party of their caucus a special indemnity.

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

MR. CHERNIACK: Would the Honourable Minister permit a question?

MR. DEPUTY SPEAKER: No. Are you ready for the question?

The Honourable Member for St. Vital.

MR. JAMES D. WALDING: Mr. Speaker, I feel I have to say a few words following the remarks of the Attorney-General. Mr. Speaker, we have a position here that's obvious to everyone, that it's the government's intent as stated before Christmas, that they were determined that the Member for Wolseley

should not get paid for this Session. It was made quite clear to the House at that time and it is obvious to all of us, Mr. Speaker, that is the intent of Bill 3. However, the government is not being particularly open with the House and with the people in saying that is their intent. That particular principle is buried under an attempt to raise a general principle involving all members and also a change in the method of paying Members of the Legislature. These latter two items confound and confuse the issue and giving rise to much of the debate that is going on today. Mr. Speaker, the debate then happened before Christmas having to do with entry into this House of the Member for Wolseley and subsequent expulsion, was a day that doesn't affect any credit upon this House and I'm not proud of the fact, Mr. Speaker, that I didn't take part in that debate. I felt at the time that the matter would come back to haunt us and I believe it has done and it will do so.

Mr. Speaker, the general principle that the government is trying to put into this Bill has been mentioned by several members as being a problem with a five-year requirement in here questioned by several members. And it could well happen that in the future a member would be convicted on the final appeal of an offence less than five years and could, according to my reading of the Bill, spend the four years following in jail, at the time that a complete Legislature was in fact sitting. And again it would my reading of the Bill that during the time that member was sitting in jail, that he would continue to be paid every two weeks, as the Bill makes provision for, without ever once making an appearance in the House. In changing from a sessional indemnity to a bi-weekly payment, that would appear to be what could happen. Under the present arrangement a member must put in an appearance in this House during one Session in order to get paid for it. That provision appears to be being removed and a different setup.

Now there is some incongruity in that particular point that appears before us in the Bill. It has been raised in question, but now the Attorney-General has made it quite clear that whether it's a five-year requirement in the Act, the House can still expel a member, either for being convicted of a criminal offence or any other action that offends against the House. If that is in fact the case, and if that is what the future government would intend to do, or a future House would intend to do, then it makes this particular five-year provision somewhat irrelevant. If the House is going to deal with a matter on its own merits, as and when it occurs, why do we need this particular provision that is in here? The power of the House to expel a member who has been convicted at the last appeal and sentenced to a period of incarceration, I don't take objection to. I feel that the House has the right to do that and will do it if and when it happens.

As far as the suspension of a member who is convicted and is going through that period of appeal, raises another question that has been touched on by some extent by colleagues and that has to do with a payment during the suspension. My reading of the Bill would indicate that a member so suspended would be paid nothing during that period of time. It has often been said by Members of the Legislature

that sitting and voting in this House is a minor part of a member's duties, that there are duties having to do with research, constituency problems, visits within his constituency and travelling between here and the constituency, which takes up a good deal of time and again that work is done between Sessions as well as during Sessions. It would then seem reasonable, Mr. Speaker, that since this Bill would prevent a member from spending some of his time on part of the duties of being a member but still keeping his seat, that it would be reasonable to make provisions for payment for those services that a member is to perform outside of the House. Especially, Mr. Speaker, when we consider that in going to a payment on a bi-weekly basis, that during the time that the Session is not sitting, that those members who have the right to sit and vote in this House will continue to be paid between Sessions for not sitting and voting. Yet the member who is suspended will not be paid for not sitting and voting. It seems incongruous, Mr. Speaker, it does not seem to make any sense to me.

One other very small point that I will add to that. The Bill seems to provide that in the event that a member should be cleared on appeal that there is provision then for the House to make those indemnities on a retroactive basis but the Bill does not say that it is a right that the member should receive that amount, only that the House may by resolution make some provision for the lost indemnity of that member. Mr. Speaker, there is room there for vindictiveness on the part of this House. It would mean that the members would then sit in judgment of that member and perhaps say to themselves, well, we know that man was guilty and that he shouldn't have got off and that Appeal Court should not have found him innocent but we will punish him by not passing a resolution to make that restitution for it. The small point being, to the First Minister, is a simple change in the section that would change the word "may" to "shall."

MR. SPEAKER: The Honourable Member for St. Johns with a question.

MR. CHERNIACK: I wonder if the honourable member would permit a question.

MR. WALDING: Yes.

MR. CHERNIACK: Mr. Speaker, I appreciate his courtesy in accepting my request and I would ask him if he can confirm from his recollection or from Pages 77 to 80 of Hansard, that on December 16th the honourable the House Leader, the honourable the Leader of the Conservative Party, the First Minister, participated in denying to a member of this Legislature the right to speak on a motion which involved his future and challenged the Speaker not to permit that to happen and asked the Speaker to hold back on making a decision. Is that not correct?

MR. WALDING: In answering the honourable member, Mr. Speaker, I had thought that the matter had been raised earlier in another member's remarks this morning but I do have the recollection that a member of this Legislature duly elected and duly sworn in and duly recognized by the Speaker had taken his place in this House and wished to stand up and represent his constituents by exercising his right

to speak to a lawful motion in this House, which action was subsequently denied by several members over that side and I cannot recall that it was the First Minister and the Attorney-General and one other member that was mentioned. But it was quite clear, Mr. Speaker, that member was denied his lawful and legal right to represent his constituents by speaking in this House.

QUESTION put, MOTION carried.

MR. GREEN: Mr. Speaker, I would like to call for the yeas and nays. I don't know whether . . . but I would like to call for the yeas and nays.

MR. SPEAKER: Has the honourable member support? Call in the members. The question before the House, the Second Reading on Bill No. 3.

A STANDING VOTE was taken, the results being as follows:

YEAS

Messrs. Anderson, Banman, Blake, Boyce, Brown, Cherniack, Cowan, Craik, Doern, Downey, Driedger, Enns, Evans, Ferguson, Filmon, Fox, Galbraith, Gourlay, Hanuschak, Hyde, Jenkins, Johnston, Jorgenson, Kovnats, Lyon, MacMaster, McBryde, McGill, McGregor, McKenzie, Malinowski, Mercier, Miller, Minaker, Orchard, Ransom, Schroeder, Sherman, Uruski, Uskiw, Mrs. Westbury.

NAYS

Mr. Green.

MR. CLERK: Yeas 41, Nays 1.

MR. SPEAKER: I now declare the motion carried.

PRIVATE MEMBERS' HOUR

MR. SPEAKER: The Honourable Government House Leader.

MR. MERCIER: Mr. Speaker, as I understand it there is no disposition to proceed with Private Members' Hour. If the House wishes we could proceed, by leave, into committee to consider the two bills that have been referred.

Mr. Speaker, I move, seconded by the Minister of Natural Resources . . .

MR. SPEAKER: Order please. Is there unanimous consent to proceed in committee?

MR. MERCIER: Mr. Speaker, I move, seconded by the Minister of Natural Resources that the House do now adjourn.

MOTION presented and carried and the House adjourned and stands adjourned until 2:00 o'clock Monday.