

LEGISLATIVE ASSEMBLY OF MANITOBA

Wednesday, July 5, 1978

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 Roblin.

MR. J. WALLY McKENZIE: Mr. Speaker, I beg to present the first report of the Standing Committee on Law Amendments.

MR. CLERK: Your Committee met on July 4th, 1978, and heard public representations with respect to the bills referred as follows:

Bill No. 11 — An Act to amend The Retail Businesses Holiday Closing Act: Harry Schacter, Winnipeg Jewish Community Council; Chaplain Spencer Burrows, Seventh Day Adventist Churches of the Province of Manitoba; and Art Coulter, Manitoba Federation of Labour.

Your Committee considered Bills:

No. 2 — An Act to amend The Distress Act.

No. 9 — An Act to amend The Mortgage Brokers and Mortgage Dealers Act.

No. 19 — An Act to amend The Public Trustee Act.

No. 21 — An Act to amend The Real Property Act.

No. 23 — An Act to amend The Securities Act.

No. 24 — An Act to amend The Real Estate Brokers Act.

No. 27 — An Act to amend The Clean Environment Act.

No. 50 — An Act to amend The Tuberculosis Control Act.

And has agreed to report the same without amendment.

Your Committee has also considered Bills:

No. 3 — An Act to amend The Provincial Judges Act.

No. 4 — An Act to amend The Highway Traffic Act.

No. 11 — An Act to amend The Retail Businesses Holiday Closing Act.

No. 20 — An Act to amend The Garage Keepers Act.

No. 22 — An Act to amend The Jury Act.

No. 36 — An Act to amend The Highway Traffic Act (3).

And has agreed to report the same with certain amendments.

MR. SPEAKER: The Honourable Member for Roblin.

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

MOTION presented and carried.

MINISTERIAL STATEMENTS AND TABLING OF REPORTS

MR. SPEAKER: The Honourable Minister of Highways.

HON. HARRY J. ENNS (Lakeside): Thank you, Mr. Speaker. I would like to table with the House a Return to an Order of the House, No. 5, dated April 3rd, 1978, on the motion of the Honourable Member for Elmwood.

MR. SPEAKER: Notices of Motion . . . Introduction of Bills . . . Oral Questions.

ORDERS OF THE DAY

MR. SPEAKER: The Honourable Government House Leader.

HON. WARNER H. JORGENSON (Morris): Mr. Speaker, I don't know who is in the House on the other side who is prepared to go on any piece of legislation that is listed on the Order Paper. I wonder if the . . .

ADJOURNED DEBATES — THIRD READING

BILL NO. 14 — AN ACT TO AMEND THE INCOME TAX ACT (MANITOBA)

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

MR. PETER FOX: Could I just take a minute, Mr. Speaker. There is one bill standing in my name, third reading, Bill No. 14. I think there's been sufficient debate on this one and we're going to let that one go.

MR. SPEAKER: On the proposed motion of the Honourable Government House Leader, Bill No. 14, An Act to amend The Income Tax Act (Manitoba). Is it the pleasure of the House to adopt the motion?

QUESTION put, MOTION declared carried.

MR. SPEAKER: The Honourable Minister of Finance.

MR. CRAIK: Mr. Speaker, it was my intention to call Yeas and Nays on this particular bill.

MR. SPEAKER: All those in favour of the motion, please say Aye. All those opposed, please say Nay. I declare the motion carried.

MR. CRAIK: Yeas and Nays, Mr. Speaker.

MR. SPEAKER: Call in the members.

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

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

NAYS: *Messrs. Axworthy, Barrow, Bostrom, Cherniack, Corrin, Cowan, Desjardins, Fox, Green, Hanuschak, Jenkins, Malinowski, Miller, Parasiuk, Pawley, Walding.*

MR. CLERK: Yeas 30, Nays 16.

MR. SPEAKER: I declare the motion carried.

ADJOURNED DEBATES — SECOND READINGS

MR. SPEAKER: The Honourable Government House Leader.

MR. JORGENSON: Yes, call Bill No. 26, please.

BILL NO. 26 — THE STATUTE LAW AMENDMENT (TAXATION) ACT (1978)

MR. SPEAKER: Bill No. 26, Adjourned debate on second reading, The Statute Law Amendment (Taxation) Act (1978). The Honourable Member for St. Johns.

MR. SAUL CHERNIACK: Thank you, Mr. Speaker. I appreciate the fact that we've finally gotten

down to this bill so we can deal some more on the government's fiscal policies and I'm glad also that there is sufficient time this morning in that the Question Period time is still on and I'm still able to participate in this debate on taxation of the government.

I want to discuss the government's entire fiscal taxation policy, Mr. Speaker. I want to point out that the government is being consistent and I think we on this side are being consistent too, each in their own philosophical approach to taxation and the burden of taxation. I start, Mr. Speaker, by referring to comments that had been made by the Minister of Finance when he was discussing a vote on a tax bill and he said something about — I'm looking at Page 3842 — "A strange response to the bill since it is a bill which reduces taxes in Manitoba." Mr. Speaker, it seems to Conservatives that reduction of taxes is sufficient to justify an entire policy in relation to government's responsibilities. We will refer later to Proposition 13 in California, but the mere fact that taxes are reduced means to the Minister of Finance, and I suppose to his Premier and to other members of the caucus, that that is a good thing and one must immediately support it.

The question then is, what justification did they have to increase taxes as they're doing in this bill before us? The Conservatives are increasing taxes in this bill and they wondered why they didn't have support in the previous bill when they were decreasing taxes. It was this Minister of Finance who referred to the problem of economic class warfare. Mr. Speaker, there is nothing wrong with recognizing power structures and there is nothing wrong with taking sides. For the Minister of Finance and people on his side to be saying this is a terrible thing, economic class warfare is a terrible thing, is a denial of the recognition of power as it exists and as it is being promoted by Conservatives. I say that because Conservatives who think that they can adjust taxes in such a way as to help those who need it least can get away with that without having it brought to their attention is ludicrous.

So, Mr. Speaker, the Minister of Finance speaks again about members on this side and I quote again from the same page in Hansard: "They are so hung up on this doctrinaire hangup," — that's a little redundant, but still he was speaking off the cuff — "They are so hung up on this doctrinaire hangup that they have about playing economic class warfare that they can't see the forest for the trees."

Mr. Speaker, how does the Minister of Finance justify increasing taxation as he does in this bill before us? How does the Minister of Finance justify reduction of estates taxation, as he has done, and using a ludicrous example which I will also refer to, and reducing taxation for the people of higher incomes such as he has already done in that he has reduced income taxes about, I think it was \$13.00 for people in low income, \$10,000 income, a benefit of \$13.00 by this Minister and his government, and a reduction in the hundreds of dollars for people who are earning \$25,000 and over? That is not class economic warfare in his mind but, Mr. Speaker, to me it is rank discrimination against those people who are least able to pay the taxes which are required of people in Manitoba to provide the services that they demand from government. If the Minister talks about doctrinaire hangups, I would say that they are the most doctrinaire of all, but their hangup is that anything that's good for business, anything that's good for people who are producing money, has to be good for everyone else in this province. Mr. Speaker, they leave out large sections of the community and then say, "Well, it's a doctrinaire hangup, so we don't have to be concerned with it."

Mr. Speaker, I mentioned estate taxation which was reduced by the Minister and his government last fall and I want to refer to the samples which he gave us. It took a long time but we finally got samples of problems relative to estates. He picked out an actual case and he wept copious tears — I don't know why his First Minister always calls them elephant tears when I suppose he should be talking about crocodile tears — but the Minister of Finance wept on behalf of a 25-year-old widow with four children who, on the death of her husband, received half an interest in the family home valued at \$30,000 which means that she now had a \$60,000 family home. She received a car valued at \$4,000; she received a trailer valued at \$4,000; she received bank deposits of \$4,000 and she received pension benefits of \$1,200 a month. You add that up, Mr. Speaker, and it is the kind of an estate that any person would be proud to have said that he provided for his wife and any widow would be proud to say that my husband was financially capable to make provision of that kind for me.

But this was done very selectively and very cutely, Mr. Speaker. I said it was an actual case. I was in error. It's a hypothetical case that they produced because you will notice that there was only \$4,000 in cash in an estate which is valued at something like one-quarter of a million dollars or in excess. Mr. Speaker, it's a hypothetical case produced by the Minister in order to show that she had no cash available to pay a succession duty tax of \$17,000.00.

Mr. Speaker, in passing, I would say that I agree that at this time with inflation as it is, the 5 percent figure that was in the estate tax law as being the factor used in determining the value of an annuity was low and I agree that it should have been raised and I say with certainty it would have been raised by the NDP government. But, Mr. Speaker, these copious tears on behalf of this

hypothetical woman — and I would call it a straw woman except that her estate is built of brick rather than straw, if I can use that analogy — is, I think, laughable and is shown up the actual case he cited. This was an extreme hypothetical case that he no doubt instructed his staff to dig out to make a good point for him but the actual case, Mr. Speaker, was a widow aged 60 and this is her estate: Present value of future pension benefits, \$250,000.00. I believe that's exaggerated; that it's more than it should have been on a calculation brought up to date on the basis of inflation. But I have learned from one of the members opposite that the capital required for a \$1,200 a month annuity is worth \$180,000 at 8 percent for a 25-year-old woman as in the former case and, Mr. Speaker, that's not a small amount of money. However, we'll come back to this actual estate of the widow aged 60. Present value of future pension benefits was rated at \$250,000; share of residence, net of mortgage, \$24,000; insurance \$44,000; cash, auto and personal \$11,000.00. Now we know that she had \$44,000 delivered to her after the death of her husband as a liquid sum of money, and the tax which she was liable for was \$25,000.00. The Minister of Finance brings this up as a sample of problems, problems, created by estate taxation.

Mr. Speaker, it would be laughable if it were not for the fact that Conservatives have been running around the countryside of Manitoba crying copious tears on behalf of estates which had estate tax problems. Here is a person with an estate that was valued and I agree that it was exaggerated, but \$329,000 is the value calculated, and the tax is \$25,000, and she has received \$44,000 in cash on the death of her husband, and the Minister of Finance refers to this as a very sad, deplorable situation which he has rectified.

Well, Mr. Speaker, it's true; he believes that he has rectified terribly serious situations in fiscal inequity, I suppose, taxation inequity. So he moves on, and what does he do? He's already removed estate taxation, he's removed mineral acreage tax, which only taxed those who were speculators; he has removed personal income tax from the wealthier rather than the people with lesser incomes, the same with corporate tax. And now, in this bill we are dealing with a drop in retail sales tax. That is nothing that he engineered; as a matter of fact, he protested vigorously at the fact that the Federal Government forced it on him, and he and the other Finance Ministers, Provincial Ministers of Canada, looked pretty foolish when it turned out that the one province which had the guts to stand up and say, "We will not be pushed around by the Feds," was able to show that the federal people couldn't push them around. But this Minister, along with eight others, capitulated to the federal suggestion of a reduction of 3 percent in sales tax, and that is in the bill before us, and I have yet to see some evidence to show that it has made a difference. I believe there is never any yardstick that can be used, and the result is, anybody can say, well, if there hadn't been a reduction in sales tax, inflation would have gone up further and people would have not bought as much. But we'll never know. Theoretically, I suppose, one can say that any reduction in taxation leaves more money in the hands of the people with which they may buy more goods; on the other hand, of course, they may invest more money in holidays outside of Canada or outside of the province, or they may put it in their savings account and then the money will be used by other people for further investments. And I think to the extent that it might be helpful, the Minister of Finance has already agreed that it will be helpful substantially to manufacturers in Ontario and central Canada because so much of the goods that we consume in Manitoba are actually manufactured in other provinces, and therefore the benefit of increased sales will redound to their help and to their benefit and to that of the unemployed in those provinces, and I don't begrudge them at all, especially since this is a federal finance tax, two-thirds of it is federally financed. Well, we have yet to see what will happen, and I don't know if we will actually find out, because, as I say, it's hard to measure.

The Minister has also in this bill suggested a reduction in — not suggested it, proposed and will pass a reduction in corporate capital tax which, I must draw to his attention, was, under the previous law, under the law which he is about to change, substantially less than that of Ontario, the neighbouring Conservative province. The tax here is one-fifth of 1 percent and the tax there is three-tenths of 1 percent, i.e., one-tenth of 1 percent greater than it is here, and they have no exemptions at all for their tax, whereas our exemption was \$100,000 and is now being increased to \$500,000.00. Of course, if the Minister followed the taxation policy of his neighbouring Ontario party colleagues, he would not be doing much of what he's doing, because they are adopting a very practical approach to taxation which he, with his hangup on the doctrinaire policy of cutting taxation to the benefit of those who are more able to pay taxation, cannot see the trees for the forest in that he cannot distinguish between those who are less able to pay and those who are more able to pay.

And, Mr. Speaker, we find — I think it was — oh, yes, the First Minister referred to Proposition 13 in California, and I know that the Minister without Portfolio in charge of whatever-it-is, has been speaking about Proposition 13 and saying that we all, in Canada and in the tax jurisdictions on this continent, must be prepared to reduce taxation and look at Proposition 13 in California. Well, Mr. . . .

MR. SPEAKER: Order please. I realize that I've allowed the member a lot of latitude in dealing in taxation matters, and it's my intention to give him as much latitude as possible, but I really have to question whether Proposition 13, a California law, has too much relevance to this particular Act.

The Honourable Member for St. Johns.

MR. CHERNIACK: Mr. Speaker, I appreciate your effort to provide latitude, but Mr. Speaker, I'm not asking for it, because I want to tell you that we are discussing taxation policy. This government is increasing taxes by this bill, and this government has reduced taxes both in this bill and in other bills and actions since it was elected. This government has a taxation policy; this government's First Minister has talked about Proposition 13 as being something that we must react to. We must realize that people don't want to pay taxes, and therefore this government has embarked on a policy of tax reduction for those in the wealthier categories and tax increases which affect many others, and I intend to deal with it. Mr. Speaker, it is impossible to have a proper debate on taxation policy as in this bill without bringing in the various factors that influence governments in deciding on taxation.

So, Mr. Speaker, when you deal with Proposition 13, it is something that is not foreign to us, because as I mentioned, the First Minister has referred to it publicly as being an indication that his government pays attention to, and the Honourable Member for River Heights has made speeches outside of this province referring to the same item. And the important thing about Proposition 13, Mr. Speaker, is that there was an appeal to the reaction that becomes evident from people who received the one tax bill that is visible to them once a year, and that is the municipal property tax. I must say this government, by its actions, has not reduced the municipal property tax and indeed, has increased it, but that's because of its method of shifting taxation on to other jurisdictions, and by doing that, by user fees that they've brought in, they are just giving up the opportunity that a Provincial Government has for redistributing wealth as well as raising funds and forcing it on to those who can only charge by user fees. And that is why it is that it was possible in California to arouse the masses, to say, "We don't like taxation; let's cut out property tax."

And they were warned by various elected people about the dangers of elimination of a broad-based tax such as the property tax, but nevertheless, they thought, well, let's make them cut down; we will reduce their taxation and property tax. So they brought in Proposition 13. I suppose one will call it a democratic process but it is one that is foreign to our system and I hope will always be, this opportunity to have a plebiscite without any knowledge really about what is at stake.

In any event, what appeared, I think it was in yesterday's newspaper, was interesting in that before the Proposition 13 took effect, many municipalities started to raise moneys to take the place of the taxes that were being denied to them, the property tax. I'm reading from a Tribune news release, news item setting out what has been done and I quote now. "Everything from charges for sewer services and garbage collection to taxes on water and cable television use have been hastily increased by the local governments to make up their losses. In a place called Downey, they are now charging \$10.00 instead of \$5.00 for a dog license, while in Sacramento 18 holes of golf now cost \$4.50 instead of \$3.50 and the price of a parking meter is now 25 cents instead of 10 cents." Mr. Speaker, that's about to happen in the City of Winnipeg, the change in parking fees but we already know the change in transit fees forced by this government. The Provincial Government has forced the increase in transit fees for the users of public transit in the City of Winnipeg.

Another reference is the \$5.00 tax on each ticket bought at the local airport and a \$5.00 beekeeper's registration fee. They're really searching for places where they can make up the moneys they need. They're not reducing that much as finding other sources of revenue. The price of parking a yacht and/or a launch has doubled in one place. There is a tax put on liquor and in Chulavista, the cruelest cut of all, they've told the boys who were lined up for the summer body building courses that they'll have to pay for the instructor themselves. There have been many of such increases in taxation in user fees."3\$

Now, Mr. Speaker, that's what I mentioned before, that this government, voted in on the crest of its own propaganda about waste and mismanagement, has now completed its Estimates without any substantial proof of the allegations that they made on the election platform and that they foolishly continued to make in their first months of office. The horror stories, the waste and mismanagement have ended up to be almost a joke in that Minister after Minister after Minister could not really produce substantial evidence of substantial moneys wasted, mismanaged, but this Minister of Finance will be able to say, "Well, the planning, the operation of management within government, the administrative management, was bifurcated or trifurcated and that's an argument as to whether there should be centralization or de-centralization of management," and really I'm quoting his First Minister in that respect, not this Minister. But in truth, they knew that there was a substantial deficit which they admit was substantially caused by factors external to the province's management and they have inherited a deficit — no question about it — they've exaggerated the deficit. They have done

whatever they could to make it appear bigger than it is, even to the extent of not telling us as soon as they knew what the reduction was and, of course, we don't know now what the final outcome will be after some six or seven months of their management, or five or six months of their management in the last fiscal year. But they have done all that and reduced taxation in the hope and expectation that they would find sufficient savings in the operation of government so that they could justify the reduction in taxes and not having found it, they are now increasing taxation in many ways.

In the Health department, they have cut services. In Home Care, they have cut hours of staff cuts. In nursing homes they have frozen five year construction program; there have been six nursing homes closed. The budget increase is only 4.4 percent with an inflation rate of 9 percent. Hospital construction has been frozen. An increase of 2 percent — and they call it 2.9 percent — in budgets with a 9 percent inflation rate. They have frozen the day care program; they have frozen the dental program. They have reduced staff in mental health programs. They have increased fees in nursing homes; they have increased fees in hospitals; they have increased fees for private and semi-private rooms. They have taken away 1,700 medicare cards from senior citizens in Medicare; they have taken away coverage from visiting students.

In universities, they have kept grant increases to 2.7 percent. They have cut programs and courses. They have cut northern funding of Inter-Universities work. They have cut summer jobs. They have made student aid more difficult to obtain. They have eliminated certain programs, FOCUS for one. They have increased tuition fees in the community colleges by 200 percent; they have increased university tuition fees, Manitoba, by 20 percent, Winnipeg by 24 percent.

They have cut grants to municipalities; they have cut grants to Assiniboine Park Zoo. They have frozen the Property Tax Credit Plan. They have reduced subsidies to Transit. They have increased transit fees; increased parking fees; increased property taxes; increased sewer rates — I received my notice only yesterday — and I say that the government has done it because they had the opportunity to prevent these things from happening by shifting taxation to other tax authority.

In their housing, they have cut building programs for senior citizens. They have reduced the Critical Home Repair Program. In Northern Affairs, they have closed all sorts of local programs, of manufacturing, employment programs that they have sold out and given away. They have frozen construction in the North. I could go on and on, Mr. Speaker.

They have cut Legal Aid very substantially. They have imposed a user fee in Legal Aid. In agriculture they've scrapped ARDA programs; they've eliminated certain of the water services that were being provided. They have then increased so many fees in the Parks Program substantially in every respect. They've increased taxation in the most regressive way in the tobacco tax. They have increased substantial — well, I mentioned the fees in the Parks Program, the Tourism Program. They have done all this even to the extent of increasing the cost of maps to be obtained from the province.

All of this, Mr. Speaker, and now we are dealing with, in this bill, what I consider the major item in this bill, they have increased gasoline taxation. They have increased taxes by 2 cents a gallon — I haven't figured out the percentage, I suppose it should be easy; it's 2 cents out of 18 isn't it, so that's over 10 percent increase by this government in gasoline tax and in that way are also forcing an increase in insurance premiums, in car insurance premiums. We've already been informed that they're bound to go up and obviously they're bound to go up. I think, is it \$7 million that the Minister is going to raise out of increased gas tax? — \$7 million to \$7.5 million that this Minister of Finance is going to raise for general revenues of this province by this bill. Mr. Speaker, in doing that, he's damaging the concept, the principle of the revenue that was being provided for the auto insurance.

Let me just switch to that for a moment, Mr. Speaker. The concept that we developed, and they don't have to agree with it, Mr. Speaker, but the concept we developed was that there are three factors involved in auto insurance. What is the value of the vehicle that is being insured? And that is, that if it is damaged, certain vehicles cost more to repair than others, so a vehicle needs. . .

MR. SPEAKER: May I suggest to the honourable member again that we are dealing with taxation and auto insurance has nothing to do with this Act or any other taxation Act in the Province of Manitoba, and I have asked the member to stay within the confines of the bill before us.

MR. CHERNIACK: Mr. Speaker, thank you very much. One should not on second reading refer to a section of a bill. But, Mr. Speaker, may I refer you to Bill 26 which is what we are now discussing, Section 2, which reads, referring to The Gasoline Tax Act, Subsection 36(3) of the Act is repealed". That's all it says in this bill, Mr. Speaker, but let's read subsection 36 of The Gasoline Tax Act, and as soon as I have it, I'll read it to you, Mr. Speaker, and tell you that its clear intent is to remove two cents a gallon from the revenue of Autopac.

36(3), Mr. Speaker, of The Gasoline Tax Act: "In addition to all or any moneys authorized to

be expended under any other Act of the Legislature, the Minister of Finance without any further or other authority shall (a) pay from the consolidated fund to the Manitoba Public Insurance Corporation, two-eighteenthths of the gasoline tax collected for purchasers of gasoline used to operate motor vehicles after the coming into force of this subsection, and after deducting two-eighteenthths of any refunds authorized," and it goes on like that.

Mr. Speaker, this bill before us, and to me the major item which takes up less than one line, and the reason I am opposed to the entire bill, Mr. Speaker, there are features I wouldn't get involved in a detailed discussion about voting pro or con the sales tax reduction. I'm willing to give it a chance, especially since the federal people are financing two-thirds of it, but this one short half a line in this bill is what makes me opposed to this bill, Mr. Speaker. And it's all very well for the Minister of Finance and other members there to snicker when there was a vote just a few minutes ago on a reduction of taxation, when they know very well that it's their tax policy we're attacking and not individual items that they are involved in, in benefits given by way of reduction.

So, Mr. Speaker, let me come back to the fact that we are dealing now, and to me the most important item we're dealing, is the repeal of the payment of two-eighteenthths of gasoline tax to the Manitoba Public Insurance Corporation. Now this two cents per gallon, Mr. Speaker, is an important part of the revenue of the Manitoba Public Insurance Corporation, which this government is taking away and not just giving back to the people. You know, Mr. Speaker, if they were willing to be consistent and say, we believe in tax cuts and we will oppose them on the equity of the nature of the tax cuts, but if they said, we believe in tax cuts; we've given back succession duties to those poor people who have aroused the sympathy of members opposite, who have to pay estate taxation when they leave estates in excess of a quarter of a million dollars, and they reduce their taxation. But when they reduce this . . . when they say the principle of contributing to auto insurance by two cents a gallon, which is a user fee which they should have grabbed onto, instead of their saying, we're giving that up and giving it back to the people, they have really, in a different sense, grabbed onto the two cents for their own coffers, Mr. Speaker. They are replacing estate taxation by two cents a gallon, and I don't remember my figures that well but I suspect that the two cents a gallon are a very substantial part of the income they have given up out of estate taxation itself. —(Interjection)— Same amount I'm told. We can almost say that they said, well, here we are, we're committed, we've gone up and down the Province of Manitoba and told all the poor people of Manitoba how hard it is on them to have to pay estate taxation and now we're committed to that, where will we make up the 7-½ million dollars? We couldn't find it out of waste and mismanagement, so where will we find it? And somebody may have said, whoa, the same amount, the same amount, two cents a gallon. And we always said that it was the hidden amount, hidden from the people when it was paid to the Insurance Corporation.

Mr. Speaker, there is nothing so hidden and nothing so covered up, as the transfers of two cents from MPIC into the coffers of Manitoba. The people at the gas pump will not know the difference when they are paying 18 cents tax. They will not realize that they are now being charged two cents more than they were being charged before this Act will have been passed. —(Interjection)— They are clearly replacing moneys that they have given up out of campaign pledges to the rich. And the Minister of Finance talks about economic warfare, class economic warfare.

Mr. Speaker, it would be ludicrous if I didn't know that he understood what he was doing, and if I didn't know that the front bench, in any event, didn't know what they were doing. They know what they're doing; they're serving their philosophy; they're serving their policy; they're serving their constituents, Mr. Speaker. And that is the point that I think has to be brought across, that this bill is designed to take two cents a gallon from every person who buys gasoline and put it into the general coffers of the province. It is an increase in taxes from the 16 cents that people were paying before; it is a reduction of two cents from the MPIC, which as I was saying, was insuring the car on the basis of value of the car, was insuring the skill of the driver on the basis of his driver's licence fees, which meant that if a person had a bad record or a good record, the amount of fee he paid for a driver's licence varied. —(Interjection)— Oh! The Minister of Finance says it's still done. I wish that he would guarantee that it will continue to be done, Mr. Speaker, because I predict something else, that the day this session closes down, the word will go out to all departments, "Okay boys, what you have not done, what you have been afraid to do while the session was on, you can start doing now. Go ahead and change more policies."

MR. SPEAKER: The honourable member has five minutes.

MR. CHERNIACK: Thank you, Mr. Speaker. Mr. Speaker, there is not the slightest doubt in my mind that the double answers that we have been getting to questions in this session are those that will be answered a year from now, when we find out how many more changes and how many more reductions in program will be brought about by this government. Changes that they will not want to make whilst there is an opportunity for us to debate them in the House, and the Minister said,

"Well, we're still . . . we haven't changed the driver's fee portion of the auto insurance." That's true. They haven't changed the charge on the vehicle either but they are changing the third method of measuring the cost of auto insurance by taking away the user fee of the volume of useage by people of the vehicles that they operate, and that is the two cents on the gallon.

Mr. Speaker, I want to make it abundantly clear, that when you bring in a statute law amendment Taxation Act, such as this is, with various features, and I believe that I was the first Minister to bring in an omnibus bill of this kind. One cannot select which items . one votes for or against, so I have to say to the Minister that because of the taxation policies which they have brought in — and which I don't blame them for bringing in, because that's their philosophy, and that's why they were elected, and that's why we have two sides of the House, because they are entitled to a different opinion than we have. But Mr. Speaker, when they do that, the point that I object to most in this bill is the regressive tax that is being imposed by this government by the 2 cents a gallon, and people should know that this government is imposing a regressive user fee of 2 cents a gallon, which will be paid directly by the consumer who uses gasoline for pleasure or for his own purposes, and will be passed on to the users of commodities which are trucked in before they reach the consumer, and are then passed on in increased costs to the consumer.

In any event, it is a regressive fee, but it is a hidden fee, because this government has not apparently got the guts to give back the money which it says was improperly raised out of Autopac, for Autopac. They're not giving that back, they're keeping it for general coffers, to make up, as I say — and it's probably a coincidence, but need not be — the same \$7.5 million which they gave up last fall to the people who died — or to the estates — to the beneficiaries who have not earned the moneys out of their own sweat, which they inherit out of estates which are in excess of a quarter of a million dollars.

This is the deplorable feature of this government's hang-up, their dogmatic approach to giving back to the rich and taking from the poor. He calls it class economic warfare; I am prepared to justify to my constituents the fact that and I include amongst them the wealthy constituents that I have to explain to them that I believe in progressive taxation and I believe that the Conservatives deplore progressive taxation and are doing their best to reverse it. I believe in taxing those who are best able to pay, and I don't think they believe in that at all, and that is the difference in philosophy, and that is one that must be aired, and that is why, Mr. Speaker, I have taken the time that I did this morning to attempt to elaborate on my views.

MR. SPEAKER: Are you ready for the question? The Honourable Minister of Finance will be closing debate.

The Honourable Minister of Finance.

MR. CRAIK: Mr. Speaker, it was interesting at third reading to hear the Member for St. Johns go through his time allotted on the bill and with some difficulty, finally ended up with what he felt he could —(Interjection)— Mr. Speaker, sorry, at second reading of the bill, and finally end up with what he finally, I think, felt he could hang his hat on, and that was the question of the 2 cents a gallon increase in gasoline tax. It was with some difficulty that he rambled through the items and finally arrived at that, and then put his emphasis on that particular tax. I don't blame the Member for St. Johns for having some difficulty, because if you go through Bill 26, Mr. Speaker — and in fact, if you go through all the tax changes that have been proposed in this session by the government, and you total them all up and look at the shifts, they haven't done, Mr. Speaker, what the Member for St. Johns would like to have had them done from his own point of view of trying to find some reason to vote against them. But despite that, he's going to vote against them anyway, and he's going to narrow it down to an argument over something like the 2 cents a gallon on the gasoline tax.

Well, that's in there all right; there's no question about that, but there are a few other things in there that have been somewhat ignored in the reduction of taxation. First of all, I think early in his comments he said that despite our opposition to the principle, or my opposition to the principle of reduction in the sales tax, that we went along with it and got into a bad deal.

Mr. Speaker, I have said before, and say it again, that in principle, we have not disagreed with the concept of the sales tax reduction; on the contrary, of the instruments available to provide a stimulation to the economy during a period when the economy is sluggish, and to put money back into, as much as possible, the average taxpayer's purse or pocket, that the sales tax reduction is as good a mechanism as is available. If, Mr. Speaker, the Member for St. Johns, if I heard him correctly, says that Quebec hung tough and got a better deal, I would have to point out that what the Member for St. Johns is saying, that the money that was put back into the taxpayer's pocket in Quebec ignored the large percentage of people who do not pay income tax; it put the \$84 or \$100 equivalent back into the pockets of those who do pay income tax in Quebec. It is a solution that is far more beneficial to those on high incomes, not nearly as equitable as the sales tax reduction,

and I am somewhat surprised to see him reverse field, unless he thought he could do it and get away with it. Because certainly, unless he is unaware of the moves that were made in the particular isolated case that he says was the winner in this game, unless he is aware of the details of how that money was distributed back into Quebec, then, Mr. Speaker, I would think that the Member for St. Johns then is being completely contradictory with what he espouses to be the position of the NDP, which is to provide more tax breaks for those on low income and less for those on high income.

Well, Mr. Speaker, there was other reference made; that was one of the most glaring anomalies in the arguments presented by the Member for St. Johns; completely contradictory, but nevertheless, always that allusion to an inequity being perpetrated by the government, but never getting quite close enough to reveal the true facts; always trying to leave the impression, of course, that the government has a master strategy in pocket, and that master strategy is to carry on their version of economic class warfare, but in reverse. That is the attempt of members opposite, and I would say the main thrust which has been presented by the Member for St. Johns.

Well, again referring to the bill before us, let's look at some of the specifics as we go through the bill, as to what it does. It first of all changes some minor things like allowing the use of coloured gasoline in forestry operations, which I would have thought would have recommended itself in main to the members opposite, because forestry machinery don't use the highways, and there's some value in saying to those types of operations that they should not pay the extra tax if they are used in the same manner, really, as agriculture. So, we're trying to do a parallel move there to give those in forestry operations the same sort of advantages that those in the agriculture industry have.

The 2 cents a gallon has been put on as a general revenue to the province. I would take the position on that, that that is probably equitable; at least those that don't drive cars are going to get some benefits through the general revenue of the two cents a gallon to the province in the way of the social services that my friends opposite are concerned about us cutting, whereas, in the other case, those that didn't drive cars were not getting the benefit of the two cents a gallon that was going to Autopac but indirectly were paying it still, through the cost of goods that were carried by the vehicles that serviced them. So, Mr. Speaker, we can spend a long time talking about that.

I don't find any great difficulty with that one; I can mount as strong an argument for the equity involved in the gasoline tax as being an equitable source of funds for general revenue, then to redistribute it for the purposes of social service, rather than specifically for a reduction of Autopac premiums, and therefore, create a distorted picture of what premium revenues are really doing in maintaining Autopac.

There is the motive fuel tax part of the bill, and this extends it to farm trucks without axle restriction that was on before, which is equitable and I think would recommend it to some of the members opposite, at least, who have some sort of an understanding of rural constituencies and rural matters, but perhaps not to the majority of the members opposite.

There is an exemption here for municipalities on this same business that allows them to file in a more direct manner without going through the same bureaucratic tangle that they were complaining about so long and legitimately for years, during the former administration, and which we straightened out by allowing them to do it directly, and doesn't change substantially the revenues to the province. I think \$190,000 is the figure, but it will probably save them more than that in just the headaches of the former procedures.

There is a rationalization for interprovincial trucking to make again the proper apportioning of interprovincial tax revenues on trucking fuels to be more rationalized, and to be more direct, and a more systematic way of sharing the revenues rather than the accounting procedures that were required before. I wouldn't think the members opposite would be opposed to that, but perhaps they are.

Mr. Speaker, we can go through — there's The Revenue Act, there's the one there in particular, I know, that some members opposite agree with, and that is to remove the tax on steam and hot water, and it's going to cost the province somewhere around \$350,000 a year. Had it been fully applied, but was not applied by the former administration, it probably would have brought in a million or two million dollars, so I guess they could look at that as a potential revenue, but was a detriment to the recycling of used materials in the production of steam and hot water. It's a conservation measure, to a certain extent, and could be regarded by most people as being a step in the right direction, but the members opposite are going to vote against that as well.

Mr. Speaker, there's an increase in the tobacco tax that increases the revenues to the province by about \$4.5 million. I presume the members opposite are against the increase in the tobacco tax, as well, because they are going to vote against this. That's very substantial, Mr. Speaker, \$4.5 million revenue there. It's in the same league as the two cents a gallon gasoline tax.

Mr. Speaker, then we come to the corporation capital tax. The Member for St. Johns didn't spend too long on that. He somehow drew that old analogy about what Ontario does and we should do

likewise and therefore we could legitimize our moves by doing like Ontario, which is the old con game which they used to use for the eight years in power, by saying, anytime they wanted to increase a tax, they'd point to Ontario or some other province. They seldom pointed to Saskatchewan, because that was the sister NDP province, but tried to find one of the four or five Conservative provinces in Canada, and picked them out, pick them out of the hat, point to Newfoundland when you wanted to talk about sales tax because they have an 11 percent sales tax, and point to somebody else that had a higher tax, and by playing that shell game, you could always justify the moves you were making here in Manitoba.

But the corporation capital tax, which could be a very significant target for the members opposite, I think the Member for St. Johns realizes that the removal of the corporation tax is from the small business sector. It reduces the number that were eligible for filing returns from 30,000 to those which will pay under this to the largest 1,500 corporations in Manitoba, thereby removing the necessity for the expensive accounting and legal advice that was being imposed on the small operations of Manitoba, and reduce the revenues from about \$13 million to about \$11.5 million, a reduction of about \$1.5 million in the process. He avoids recognizing that in the total tax package that has been presented by this government we have imposed a surtax on large business — we've left the large business corporation tax at the highest in Canada as a result of that plus the regular rate, and we've taken a tack to try and provide incentives for the small business sector in Manitoba, out of the total business spectrum.

That's the sort of thing that is happening across the way. They're finding themselves grabbing on to these lost leaders, a lost leader like the two cents tax on gasoline.. Two cents on now is the total price of 80 cents a gallon, or more, 90 cents a gallon for tax, 95 cents a gallon for tax — and they grab onto that as a lost leader so that they can find some justification to vote against what basically are very substantial benefits to a wide cross-section of Manitoba taxpayers. The small taxpayers, in this bill, are benefited more than those who pay large amounts of taxes, in this bill.

The members spent a great deal of time talking about The Succession Duty Act — the death taxes. Well, that was a bill that was passed last December, and received a fair amount of discussion by the Member of St. Johns in this particular bill, although it is a bill that has already gone through this Legislature, and which I provided further material on. That's not in this bill. The members opposite have a legitimate philosophical position on that bill, and give them their due, that's a case they can make. But that bill was dealt with six months ago, we're now dealing with Bill 26.

Bill 26 has got primarily a collection of benefits that are beneficial to the total spectrum of taxpayers in Manitoba, and if the members opposite are going to find two cents a gallon on gasoline the reason for voting against all the other beneficial effects in the bill, more power to them. I'll meet them. The Member for St. Johns says he'll have no trouble explaining it to his constituents, I can tell him I don't know whether I'll have trouble, but I won't have any hesitation about pointing out to the constituents, the people of Manitoba, as to what the government was attempting to do through these tax changes that are being brought about in this bill.

Another one that's pointed out here, it's not a large measure, but again it's typical of the measures that are in this bill, the changes in the tax on insulation and on conservation. We've removed the tax on all insulation, not just that that is applied in single family dwellings, but in all buildings, because the intent of this government is not to play politics in the economic class warfare sense, and only reduce insulation tax for certain segments of society. Our aim is to attempt to bring about greater conservation measures. We're not worried about whether the insulation goes into what price of a building. We're concerned about providing incentives that will conserve energy and change the design patterns into the future so that we can get better buildings built and less energy consumed, energy which is going to be exceedingly expensive in the future for homeowners as well as people who dwell in rental apartments, in blocks, who didn't qualify. The blocks did not qualify before for the incentive to go to greater insulation in blocks. That's removed. We've included things like triple glazed windows, doors and other things, small items, but nevertheless, something that can be indicated as the direction that the government wishes to take in bringing about greater conservation measures. That's the reason for that move in that bill. It doesn't cost a great deal of money to the taxpayer; it doesn't cost a reduction in services of the government, Mr. Speaker. What it does is provide an incentive to people to practice greater conservation measures. It's small but nevertheless a step in the right direction and will be followed by more efforts by this government to provide greater and greater incentives for greater conservation measures.

Mobile homes, we've changed the tax. We've removed the tax on labour on mobile homes. That's in this bill. And pre-built homes, the tax on labour is removed. Under the former government, they took a five percent tax on the labour that went into pre-builts and a 5 percent tax on the labour that went into mobile home constructed and sold in Manitoba. We've removed that. It's at a cost of over \$1 million but it's still removed. They're voting against that as well. Mr. Speaker, that's the main contents of this bill. It isn't death taxes that they're hung up on across the way. These are

all beneficial taxes to the people of Manitoba and the members opposite are trying to mount an artificial diversionary argument about death taxes which were six months ago in an attempt to con the people in Manitoba to believing that somehow we're doing something for the rich people. Well, Mr. Speaker, there's never been so much nonsense perpetrated in this Legislature. This bill is a good bill. I'm just surprised that there hasn't been more analysis.

The Member for St. Johns says his researchers add up all the taxes that have been increased. My goodness, Mr. Speaker, the taxes were increased every year in one sphere or another; whether it was park entry fees or whether it was some other tax, those nickle and dime taxes were increased every year by the former government, not every tax but some tax every year. There was always this and that and a fee here, a tax there. He talks about a tax on maps. I can remember when the fees were put on maps in the Mines and Resources Department over in the Norquay Building several years ago. All of these things happen from time to time. Whether or not there has been more happen this year than any other single year, maybe that's open to argument. I don't know. Perhaps they are. But, Mr. Speaker, that's not what is contained in this bill.

The member says that we're going to have to reduce services, therefore, you cannot reduce taxes because the corollary is you're reducing government service. I tell him he's wrong, Mr. Speaker. He wants to know where the horror stories are. The problem is what he thinks are horror stories, or doesn't think are horror stories to him, are horror stories to some other people. Those that are fiscally conscious, there's plenty of horror stories. I've told him before, if he had read the Auditor's Report alone over the last three or four years, there's pages of them contained therein, Mr. Speaker. They are all laid out there. Well, Mr. Speaker, they didn't have the werewithall or the drive to tighten up their administrative procedures and those stories continued.

Mr. Speaker, the taxes that are being reduced in this bill in total, Mr. Speaker, can be accommodated for in greater efficiency in government and, Mr. Speaker, have already been accommodated for in greater efficiency in government. The proof of the pudding is going to be in the eating. Mr. Speaker, let's wait a year or two. We'll see whether the reduction in income from the moves that are being made in these taxation fields are in fact going to be a significant factor in the operations and reductions of the level of service in government.

Mr. Speaker, I contend that they will not, the net reduction in taxes, that if you net out everything that has been done, are not going to be greater than the increased savings from the increased efficiency in the operation of this government. When the Member for St. Johns refers to waste and mismanagement, that the present government mounted a campaign of proving there was waste and mismanagement, he's correct, Mr. Speaker, because it's there and it's not going to be large massive show-window type of demonstration in particular, it is going to be an improvement in the efficiency and operation of government over a period of a year, two years, three years, that is going to reflect itself.

Mr. Speaker, the changes in these taxations are beneficial. The amount of reduction of revenue to the government in net is not large and significant on average. The largest single one that is in this bill is \$21 million, that it costs us to once attempt to reduce the sales tax and stimulate the economy in conjunction with the initiative of the Federal Government which we have no hesitation in doing as a matter of principle. We have argued about the constitutional aspect of the way it was done. That is another issue. But as a matter of principle, this bill also approves the reduction of the sale tax. It proves one-third of the cost of doing it by reducing it from 5 percent to 2 percent. That, also, the members opposite are voting against. I look forward to the likes of the Member for Fort Rouge on this bill who I noticed voted against Bill 14, Mr. Speaker, to see how he votes on this particular one. I have no doubts that the members of the New Democratic Party are hung up enough on this one single issue that they've been able to isolate in this bill that they can try and cloud the issues — I say issues, plural — because there are at least, probably a dozen small taxes that are affected in here which they are going to try and gloss over by hanging on to one particular tax that they don't like. But in so doing, Mr. Speaker, I'll be happy to see the Yeas and Nays on this bill as well and I think that history will prove the members of the opposition wrong in opposing this bill in principle at this time.

QUESTION put, MOTION declared carried.

MR. CRAIK: Yeas and Nays, Mr. Speaker.

MR. SPEAKER: Call in the members. Order please. The question before the House is second reading on Bill No. 26, The Statute Law Amendment (Taxation) Act (1978).

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

Wednesday, July 5, 1978

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

NAYS: Messrs. Barrow, Cherniack, Corrin, Cowan, Desjardins, Fox, Hanuschak, Jenkins, Malinowski, Miller, Parasiuk, Pawley, Walding.

MR. CLERK: Yeas 31, Nays 13.

MR. SPEAKER: I declare the motion carried.

BILL NO. 39 — THE FAMILY MAINTENANCE ACT

MR. SPEAKER: The Honourable Member for Logan.

MR. WILLIAM JENKINS: Thank you, Mr. Speaker. —(Interjection)— Yes, I guess we will be calling for Yeas and Nays eventually.

First, in rising to speak to Bill No. 39, The Family Maintenance Act, I want to express my disappointment —(Interjection)— Well, Mr. Speaker, I guess that just proves how much the Progressive Conservative Party thinks about The Marital Property and Family Maintenance Acts here in the Province of Manitoba, because they all seem to want to disappear out of the House. —(Interjection)— Or maybe it could be that I'm so boring that they're going to leave, I don't know which.

But anyway, Mr. Speaker, to get back to the bill before us, and I don't intend to take too long on this bill because I think that this bill should go to Committee even though we're opposed to the bill in its present form. I think it should go to Committee because there are many people waiting and wanting to make representation on this bill, and I think that they will tell the government, and maybe in much better terms than I or other members on this side of the House will, exactly what they think of this bill. First, I want to say that I want to express disappointment in the bill; disappointment because last year we were accused of not strengthening the enforcement of maintenance orders in the Province of Manitoba. And lo and behold, Mr. Speaker, we find that the same enforcement is here; the then-member for Fort Garry, the now Minister of Health and Social Development, this was one of the reasons why he couldn't vote for the bill on third reading last July, or last June I guess it was, pardon me. But he has now seen fit that he can support this bill with the same enforcement of maintenance as there was before, and I was critical of our own bill that we passed last year because of the lack of enforcement. I think if anyone had seen the CBC program, The Ombudsman, last year, when this issue of maintenance and maintenance payments was one of the topics that the CBC dealt with at that time. There was one lady with a stack of maintenance orders about that high — she could have papered her walls, perhaps her whole house with them — and if there was anything the Progressive Conservative Party, because of their stand last year, I thought that they would do something about, this would have been it. But they saw fit not to do so.

Now, Mr. Speaker, it's unfortunate that the present government has seen fit to make a retrograde step in the whole field of marital relationship in the Province of Manitoba. We had the most progressive legislation in the whole country; we are now at the tag end, trailing along behind everyone else in this field. And you know, if Nellie McClung could suddenly come back here to Manitoba I don't think that she would be greatly surprised by the steps that this present government is taking, because it was a Conservative government of that day that she battled and the ladies of the suffragette movement battled to try and get the universal franchise. And it was the government of Sir Rodmond Roblin, of the day, who fought her tooth and nail. But eventually, to the credit of someone here in Manitoba, we did lead the field in Manitoba by giving the universal vote to the ladies of the Province of Manitoba. Unfortunately, this is not going to happen here as far as The Marital Property Act, The Family Maintenance Act. And you know if there's one thing in this Act that is really reprehensible, it is the section — and I know, Mr. Speaker, that I can't deal with specific sections — but dealing with the onus of guilt, or conduct, unconscionable conduct, that shouldn't be applied to a marriage. Well, you know, Mr. Speaker, unfortunately, in the eyes of the judiciary and judicial discretion, it's going to apply more against the person who is a dependent spouse and that in most cases is women. And with the lack of enforcement that is in this present bill and the one that we had, the status quo is going to remain as it was. I mean deserted wives or separated wives are still going to be trying, in the family courts, to get the court orders enforced; they're still going to have the problem of trying to track down their spouses to make sure that the maintenance orders are paid. There's nothing within the present Family Maintenance Act that is

going to alleviate that situation.

So, Mr. Speaker, instead of having an act such as we had, which put the onus on maintenance on need, we now have the maintenance, as far as the spouse is concerned, to be determined on her conduct. She is going to be the one that's going to have to be circumspect, because in most cases, as I said before, she is the one that is dependent. And it's interesting to note that some of the people who were on the Law Reform Commission, especially Mrs. Myrna Bowman, and she states that no one will know his or her rights under the family laws proposed by the Conservative government — and I think that's quite true — because again, we have this increased judicial discretion. And no one is going to really know what their rights are until they wind up in a court. And as she also said, they didn't abandon the principles of the bills, they just mutilated them; they certainly did; they mutilated the bills. As I said, we went from leading the field here in dealing with marital property and family maintenance — I think we led the field in Canada — and we are now at the tag end. And so, Mr. Speaker, to say that I would like to see this bill go to Committee to hear representations — no, I would like to see this bill defeated right in this House, because what this bill is doing is repealing the present Act, and the present Act is a far superior piece of legislation than the piece of legislation that we have before us here, a far superior piece of legislation. The Honourable Member for Pembina can shake his head, but he can go to the Committee hearings and he'll hear what members of the public have to say about what they think about your mutilation of the bill.

And so, Mr. Speaker, because of the steps backwards in the present bill, I cannot support this bill in its present form, and I shall vote against it at this stage. I know that we are not going to win the vote, but nevertheless, Mr. Speaker, I think we have to put our position clear, and I think it's been stated — -16 7 by several members of our party that we are not in support of this bill or the other bill, the companion bill that goes with it, Bill 38, because we have moved from leading the field back to tagging the field.

And you know, it's a funny thing that the present government, until one Mr. Ken Houston last year appeared before the Committee on Statutory Orders and Regulations, were pretty well in agreement with the proposed changes that we were dealing with in The Family Maintenance and The Marital Property Act. But one person, Mr. Ken Houston, came and made representations against that bill and that's what the Progressive Conservative Party was looking for; they hung their whole case on that peg. And that has been the whole problem with this bill.

Then just to add insult to injury to the people out there in the general public, what does the present government do? It appoints this person, this one Mr. Ken Houston, as one of the people who is going to have a look at the legislation — you know, talk about gall, rubbing people's noses in things — that's exactly what the present government did. Mr. Anderson was no better, and then as an afterthought, because of the pressure that was in the mini-session last fall or early winter, they added Mrs. Myrna Bowman.

So, Mr. Speaker, given this set of circumstances and having had the best legislation in Canada, and now we have something that is mutilated and torn to pieces and the widening of the discretion process which was one that we had narrowed down to a great extent so people would go into the courts knowing exactly where they stood. You know this bill in particular, Mr. Speaker, was one that was proclaimed and was actually operating. This bill operated — the Member for Selkirk can nod his head — I think it was operating for a month or six weeks, somewhere in that length of time and people who appeared last year before a committee told us that it was working well. I think Mrs. Bowman said again here, in dealing with reference to conduct, in deciding the amount of maintenance, as a lawyer with a lot of experience, "I could not tell my clients what this section means," and nobody will know what it means until it gets into the courts and a judge makes a decision.

You know, we talk about litigation. It was our hope with the legislation that we had, and the legislation that we are repealing at this present time — because that's what the two present Acts are doing; they are repealing the other Acts and substituting new Acts. At least under those things, we had narrowed the field of discretion down considerably. People would go into courts having a better idea of where they stood. Now the field is wide open again; I would say we're back at square one. In many cases, we're back at square one.

But you know, I think Frances Russell put it very well, and I think in a column she said, that . . . let me just find the thing. Basically, what she said was this, that the women of Manitoba and the people who are in support of our legislation may have lost the battle, but they have not lost the war, because there will be other changes, there will be changes, and when we get back in power in 3 or 3-½ years time, the changes will be made; there is no doubt about that. —(Interjection)— And my honourable friend says we can dream on. But if you want to hide your head in the sand like ostriches, you go ahead, be my guest, because the people out there, and from the messages that I hear about this government, you're here for a one-term shot only and you are going to be out on your ear.

So, Mr. Speaker, with those few words I am going to conclude my remarks on the bill. Again I want to express my disappointment in the lack of enforcement in the bill, and if there was anything I thought that this government would do, they would try and tighten up the enforcement of maintenance, and notwithstanding what the Minister of Health said the other day when he spoke on the bill praising the former Minister of Corrections that they have been able to pick up a few of the evaders of paying maintenance, but that problem, the Honourable Attorney-General knows it as well as I do and knows it as well as anybody in this House, that that problem remains and is still there, and there is nothing in this bill that is going to help the enforcement of maintenance.

And all the nice platitudes by the Honourable Minister of Health and Social Development isn't going to matter one iota, that women will still be able to pay for their walls with unenforced maintenance orders, they will be still there. To be fair, Mr. Speaker, even under our legislation there would have been that problem, but it was a problem that we were working on.

So, Mr. Speaker, I can't support the bill. The members on this side of the House are not prepared to support this bill to go to Committee. It is our hope that the bill will be defeated in this House, I know that's not possible because we don't have the number of votes on this side of the House to do so. But I don't want to see this bill prolonged or dragged in this House, I think it should go out to hear public representation, and you'll hear representation. You may not listen, you may not like and I am sure you won't like some of things that you're going to hear from the public, but nevertheless you're going to hear them just the same. So with those few remarks, Mr. Speaker, I am prepared to vote against the bill.

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

MR. AXWORTHY: Mr. Speaker, I don't intend to take very long at all because I expect that as we move into the consideration of this bill in Committee, we will have more than enough time to spend listening to a variety of representations, and I expect we are all looking forward to that with great expectations. On those long July evenings, the some fifty-odd representations I think that have already signified their intention to speak to these measures, which is probably a fair indication of the importance with which a nuer of people in this province treat the bill.

There is just two or three items that I would want to bring to the attention of the Minister, mainly in a spirit of constructive positive recommendation, because I think that the political reality of course is, this is roughly the bill that's going to pass, so we might as well now start in a way of trying to make those changes in it that will make it a somewhat better bill. I would assume that the Minister would agree that it hasn't quite reached perfection yet, even though it was his ambition to improve upon the previous legislation; it may not have reached the ultimate optimum of excellence in terms of the way to deal with the matter.

I think, Mr. Speaker, we should be a little charitable in the sense that these are not easy matters to legislate, and I think that if anyone pretends that there is only one solution or only one way of coping with the question of how should the question of maintenance be resolved, is fooling themselves. There are a variety of ways that different jurisdictions have come to grips with the problem, and to my mind, as I have read and tried to review each one of them, none of them are totally satisfactory.

I think it is wrong and perhaps again a little bit unfair to berate the government, whichever government it is, this one or the previous one, for the problem of enforcing of maintenance orders. It is obviously a very difficult problem and because we happen to live in a federal state where you have got ten separate jurisdictions administering this, the difficulty of trying to find a uniform way of doing it and guaranteeing it, is not one that, at least to my mind, lends itself to a quick or obvious solution.

But I think, Mr. Speaker, that there is one fault in this bill that many other speakers in debating it have pointed to and that is its use of the concept of fault in trying to judge the amount of maintenance that will be provided. My objection to that concept, Mr. Speaker, is primarily this: that I don't think that it takes into account the changes that are taking places in the institution of marriage. It is still based upon a notion or an understanding, an assessment, of the marriage relationship that may have existed a few decades ago but doesn't quite conform or fit with what I think both mei and women in today's society are trying to say what the marriage relationship is. I suspect, Mr. Speaker, that is at the bottom of why many of the women's organizations object to this because they recognize it to be a denial, in part, of the concept of equal partnership that they have been arguing about, that what is taking place is we have a legal technical item which tends to deny or contradict the basic principle of equal partnership in marriage. What they are again saying is that the onus of proof for conduct is primarily going to rest upon the woman in a case where there is a marriage breakdown. It appears once again that the relationship is an unequal one. It is one in which the majority of cases, perhaps 90 percent of the cases, will be where the woman must

defend her conduct in the marriage in order to gain maintenance and the male simply will be, in a sense, the adversary, in a sense. That contradicts the basic notion which many people who have been trying to achieve a more equal or equitable relationship object to, that we have returned once again to the idea that the male partner in a marriage has certain advantages and certain rights that the female partner to a marriage doesn't have. Once again we're returning to it in this concept of using the question of conduct as a basis for determining the amount of maintenance.

I find, Mr. Speaker, the Attorney-General's explanation of that, particularly his introduction to the House of several English cases as a matter of precedent to say that in fact this would only come into play where there is, I think his word was bizarre or exceptional circumstances, really doesn't tend to hold true. If those cases are read properly, you will find out that first the cases themselves are not so bizarre and that secondly, the interpretation given by the courts to them again gets back to the issue of relative conduct. It's not a matter of one spouse or the other having their behaviour or conduct examined in isolation. What it does mean is — I think in the one case it was the Dawson case where it was — is the behaviour of one spouse worse than the other spouse. In other words, we're getting back into this whole question again of who is more responsible for the breakdown? Which of the partners is more liable for the marriage to be disrupted? Which means that you are getting back then again to that issue of proof and that really isn't the — I defer to the Attorney-General, he's a lawyer and I'm not, but I have consulted several lawyers and I said, "How would you interpret these cases based upon the reading given by the Attorney-General?" Frankly, the interpretations were different but one thing that did come through is that they saw those cases as basically being cases determining relative conduct between partners and not isolated conduct. So all of a sudden you're back into the whole question again of the adversary relationship, proving one against the other.

In fact, Mr. Speaker, what bothers me about it is that the Attorney-General, in speaking to these bills and in his public comments, has stated many times that his real concern is the state of marriage and the concern of trying to eliminate acrimony and try to provide for reconciliation. It would seem to me by reintroducing this concept back into it, what he is really doing is re-introducing the basis of confrontation, the basis of conflict and the basis for adversary relationships.

If you go back, was it Section 8, where he says, "I want to provide for a means of reconciliation," what he is really doing in Section 5(1), is setting the grounds on which reconciliation is most unlikely to take place because you've got one partner with another trying to prove who was more at fault, who sort of stayed out later at night, who was more flirtatious, who was, you know, more slovenly in the housekeeping, whatever it may be. I'm worse than you or you're better than me or whatever those questions may be.

Now under those conditions, under those sorts of areas of dispute, it's highly unlikely that you are going to get any spirit of reconciliation being created. So in effect, by reintroducing that particular element into the legislation, I think he is destroying or certainly contradicting his own objectives.

So I would simply ask, very clearly, Mr. Speaker, ask the Attorney-General to reconsider that particular portion of the bill, under Section 5(1) where they talk about gross conduct as a basis for determining the amount of maintenance, and ask that it be amended or changed to eliminate or substantially moderate that clause. There are several other conditions which he's included which I think can be lived with. They are relatively good conditions for the basis of determining the amount of the maintenance. Why introduce that last one? What was the particular feeling that somehow — vindictiveness — I'm not sure, I don't want to impute motives. It was highly unnecessary to the legislation. The legislation would work well without it, and I would simply put to you, Mr. Speaker, and to the Attorney-General, asking him to really reconsider that, because I would say, first, that he would have a better piece of legislation without it, it would work better without it; secondly, he would eliminate much of the concern and objections to the bills that are being raised by those people in our province who feel that we should be moving toward a greater equality in a marriage relationship, that would eliminate a cause of concern, a cause of antagonism through this legislation and therefore help make the legislation work better. I think there is an old principle that legislation works best when there is a consensus upon which it's based. If, in fact, the Attorney-General brings in legislation which has many people in the population feeling that it is wrong, or that particular element makes it objectionable, then the legislation will not work as well. And I would much prefer to see legislation based upon a broad base consensus rather than based upon a division in the population.

And so, Mr. Speaker, I would ask first, really, that the Attorney-General give some reconsideration to changing that element of the bill, and I don't think that he would in any way water down his own principles or change the position of his party. In fact, I think that he would find in the actual operation of the question of maintenance, that he would improve upon it and he would be closer to securing his own values and his own objectives by remaining . . . I would argue with him, that if there are members of his own caucus that feel that there has to be this question of conduct introduced, then he should be prepared to contend with them saying: Look, the institution of marriage

has changed, and while many people still have every right and privilege to maintain traditional values of marriage, there are many who are changing their minds to it, and that doesn't mean that their marriages are any worse, they are just different, and the relationship between men and women in the marriage relationship must be recognized to have changed. And this maintenance clause doesn't take full cognizance of that fact.

So, Mr. Speaker, that would be the first point and perhaps the major point I would like to raise with the Attorney-General.

The second point that I would like to raise with him is the way in which this bill will work in the courts. I think, Mr. Speaker, we have given far too little attention to the operation and implementation of legislation such as this in our present court system. There has been a variety of comments in the last committee hearings just a year ago, about the inadequacy of the Family Court system in this province for coping with the new legislation, and I would say, Mr. Speaker, that even in this legislation, there is room for improvement. I know we aren't supposed to deal in specifics of the bill, but let me just raise certain principles dealing with the operation of the courts.

I think first, Mr. Speaker, there is, to my mind, not much justification for having all Family Court proceedings closed and this legislation only makes a minimal change in that area, saying the court may have open hearings if it so decides. I would suggest, Mr. Speaker, that we would get a much better application of the law, if the court was open, certainly, for barristers and officers of the court, and for the media, with the understanding that names and so on aren't printed, so that people come to a clear understanding of what takes place in marriage breakdowns. And I think that the Attorney-General might be prepared to consider that aspect of the operation in the courts. I think we would have better jurisprudence if there was better understanding of the population as to exactly what went on, and I don't think we gain much by having a closed courtroom. I would like to see it more open and more accessible so that people would begin to understand the nature of family breakdown that's going on and the kinds of cases that we have. I think, when I listened to the hearings last year, and as I listen to the comments of other members, I'm not so sure that many members of this House have a full appreciation of some of the dire straits and tragic circumstances which arise when a marriage does break down, and I think that if we had a better understanding of it, and also knew more about the way in which the judges themselves handle the case, we might get better jurisprudence. It was said last year, and it's been confirmed to me by other members of the profession, that the Family Court itself leaves much to be desired in terms of the nature of justice that's meted out in those areas, and, Mr. Speaker, I would think that one of the ways to ensure better operation of the courts, would be to make it more open and subject to more scrutiny of other members of the Law Society, so that there would be a certain sanction of their peers in the application of judgments and the application of it. And I don't want to cite the horror stories that have been cited to me about the way the courts sometimes work, but, Mr. Speaker, if any of the cases or half of them are true, then those who come before Family Court are oftentimes subject to very arbitrary and very capricious behaviour. And I think, Mr. Speaker, that the Attorney-General would be well taken to look into that particular operation of the court.

I also think, Mr. Speaker — it is a small point but it's one that we should consider as well — he talked about making certain changes in the physical facilities of the Provincial courtrooms. One of the real anomalies is the situation of the Family Court in Tuxedo. A lawyer, who practices a great deal in Family Law, said that a large percentage of the cases come from parts of the city where there is a fair amount of poverty and where there isn't much access to transportation, and those long treks out to Tuxedo to sit for two or three days waiting for the case to be called, becomes a real matter of aggravation, and certainly of major inconvenience for a lot of people who use the court. I think the Family Court, frankly, is just badly placed.

I would also say, Mr. Speaker, and just mention my regrets, because the Attorney-General and I exchanged some words earlier on in the session, about the way in which the provincial government handled the development of the Unified Family Court. The experience in other provinces is that this has been a major improvement in the operation of the court system, and because the provincial government, through its cutbacks, deferred any further application in this area, thereby losing its funding, I think that we have suffered a serious setback in the enforcement and application of Family Court justice and jurisprudence in this province. It may be crying over spilt milk because it is probably already too late, but I wish the Attorney-General was a little more active in pursuing or trying to correct what I consider to be a serious mistake that the government made in its haste to freeze or cutback or look for ways in which they wouldn't spend capital. Again, I could point out that there are many other ways in which the government is spending capital that probably, in my mind, would have less priority than this area.

I would also like to point out, Mr. Speaker, one other question which I raise more as a matter of asking the Attorney-General for further amplification, but also providing some, I guess, criticism, and that is in his clause dealing with reconciliation. I see a basic problem in the application of that

notion of reconciliation as it's written in the legislation. I certainly don't object to the notion or spirit of it, but it would seem to me, Mr. Speaker, that under the way the legislation is now written, where one party can apply for a period of reconciliation, it simply gives a way of delaying proceedings. It gives one of the partners a way out, it gives one of the partners a way of simply prolonging matters, and again, if I come back, and I have spent some time talking with lawyers who have dealt in this field, that that can become a further cause of anxiety and a further cause of suffering, because if a marriage has broken down and one partner is simply using this as a ploy to sort of extend matters, maybe even use it as a way of arranging affairs to get out of the province as quickly as possible so that they don't have to pay their maintenance supports, then it would seem to me that this clause on reconciliation could lead to some matters of injustice. It would seem to me that if there is going to be reconciliation written in in legislation, it should be very clear that it has to be based upon the agreement of both partners, and it simply can't be a matter of one partner saying, "I would like to have a reconciliation." It's got to be something that is agreed upon by both and that the court understands that it is not simply a matter of one partner saying, "I would like to do it," and the judge ordering the other party to go along. I think it's got to be based upon some agreement that there would be a worthwhile endeavour for reconciliation, otherwise I think it again simply makes matters worse,.

So, Mr. Speaker, those are my three basic comments on the bill. One is that we can get better legislation by changing that question of using need as a condition of how much the support should be given; secondly, I really think it would be wrong if we don't do something more to clearly look at the way in which the court system operait is now written, I don't believe that I can support it, but I do support many of the other parts of the legislation, I would like to see it go ahead, but I'm simply hoping that we will be able to make those changes, that particular major change that I recommended in committee, or at least moderate it, and then be able to reserve final judgment of the bill for third reading.

MR. SPEAKER: Are you ready for the question? The Honourable Attorney-General will be closing debate. The Honourable Attorney-General.

MR. MERCIER: Mr. Speaker, perhaps I could first deal with some of the comments that have been made by the Honourable Member for Fort Rouge. He has expressed a concern with respect to the newly introduced reconciliation clause in The Family Maintenance Act, a concern that this might be used by some parties as a delay mechanism either for the purpose of leaving the province, or causing anxiety on the other party. Mr. Speaker, this provision, this clause, is very similar to that which is contained in The Divorce Act which, I believe, has been in effect since approximately 1967 and in my own personal experience, I have not seen it implemented on very many occasions. In fact, the information we've received from the Family Services Branch at the Family Court has been that there has been very few referrals from the divorce courts to the Family Counselling Service under that particular section in The Divorce Act.

I did indicate, however, when introducing the legislation, that it was our view that there may very well be more opportunity when people are applying for separations for reconciliation than there may be at the divorce level because, in many instances, the separation is a first step in applying for a divorce. So we are hopeful, Mr. Speaker, that reconciliation provisions might be more utilized at this level than they have been at the divorce level. They have not, in my experience, been used for the purposes described by the Member for Fort Rouge and I would like to assure him that I think in the experience of people who practice family law, that this section in The Divorce Act has not been used for that purpose. Generally, if one spouse indicates that he or she has no intention, no wish to be reconciled, the judge will not invoke that particular provision.

Mr. Speaker, the honourable member referred to unified family court. I would point out, Mr. Speaker, this was one of the items that was discussed at the recent Attorneys-General' conference and it was the general feeling of those in attendance that the long-term solution is to have dual appointments at the Family Court level, at the provincial judge level in order to provide for a court which has the necessary authority to deal with all of the matters ancilliary to marriage breakdown. In the interim, we are suggesting that the Federal Government pass an amendment to The Divorce Act which would allow provincial judges to also have the authority to hear divorces because this would expand the jurisdiction and the authority of the Family Court in dealing with these important matters. But the long-term solution, Mr. Speaker, is the dual appointments of provincial judges.

The unified Family Court experiments are certainly valuable learning lessons. It would be my hope, Mr. Speaker, that there will be the necessary financial resources and that the Federal Government will reconsider the position they took in withdrawing funding for the project. It was certainly not our understanding at the time this matter was dealt with in Estimates that the project could not be deferred for a year. Our understanding at that time was, in fact, that it could be deferred and

that it could perhaps even be followed through next year for a full three years. However, subsequent to the decision we made at that time, a change was made by the Federal Government and hopefully they will reconsider their position in future years. In any event, I have written to the Minister of Justice asking that he reconsider that decision but I have had no reply from him.

Mr. Speaker, the honourable members also referred to hearings in private. I would point out that the legislation is discretionary, that the court may exclude all or any members of the public from all or part of the proceedings and I would suggest that that is the best way to leave this particular matter, so that the judges, depending upon the circumstances and the wishes of the parties are certainly very important in these matters, Mr. Speaker, the judge will be able to make the decision as to whether or not these proceedings will be heard in private or otherwise.

The other main point raised by the Honourable Member for Fort Rouge, Mr. Speaker, was the question of conduct. He suggested that using the phrase that we have used, that the cases would degenerate into a consideration of the relative degrees of conduct of either parties — I would suggest, Mr. Speaker, that that is not the case, that the cases which we have cited in support of this principle, indicate that the vast majority of cases will not be encompassed within Section 2.2 and will only be a small minority of cases, excessive cases, Mr. Speaker. I think that's clearly set out in the cases which are used in support of this principle, not only here in Manitoba but in Ontario. The legislation therefore I think recognizes, Mr. Speaker, the changing values in society that in general fault does occur on both sides of a marriage when there is a marriage breakdown and I suggest that it is recognized in this legislation, Mr. Speaker, in that there will not be a consideration of whose conduct was more gross but it will only be in very rare cases where one person's conduct is so blatant as set out in some of these cases that justice and common sense dictate that money should not be paid to the offending spouse.

Mr. Speaker, I must say I've listened to the comments of the honourable members opposite with some interest but at times, Mr. Speaker, their comments have been confusing and contradictory. I'm not sure, Mr. Speaker, whether they understand the legislation that is before them now or they understand the legislation that they passed at the last session. Mr. Speaker, one of the prime reasons that they have indicated they will oppose this bill is that it repeals their legislation. They've accused the government of deception. They claim that when we suspended The Family Maintenance Act at the session last fall, we should have stated then that we were repealing the 1977 legislation. Mr. Speaker, repeal was not the intention of our government and the members opposite have no grounds for that allegation. They apparently have not compared the two bills, their Bill 60 and the present Bill 39, to find out what changes have been made even though, Mr. Speaker, I have passed out a number of explanatory notes to them which indicate which sections have changed and in what degree they have changed. They would have realized, if they had read that, Mr. Speaker, or compared the two bills, that there are a great deal of minor amendments, so high that we felt it was necessary, Mr. Speaker, to repeal the legislation and present a new bill so as not to confuse anyone.

Mr. Speaker, there were 41 sections in the 1977 Act. This bill contains 28 amendments to that bill. Yet of those 28 amendments, 12 — almost half — involved the substitution of the word "court" for the word "judge." Another 11 involved minor changes in wording, the intent of this section remaining intact or the combination of sections; the repeal of sections or a change such as in Section 11 whereby it is no longer discriminatory which is hardly a substantial one. These account for 23 of the total of 28 amendments. Mr. Speaker, it would appear that there are only five major amendments to the 1977 legislation, and it is only for the reason of providing a full bill that is all in front of members of the Legislature and, therefore, I think much more easier for all of us to deal with that we take the step of proceeding with the repeal of the 1977 legislation in introducing a new bill with all of the amendments contained in it.

MR. SPEAKER: Order please. The hour being 12:30, the House is adjourned and stands adjourned until 2:30 this afternoon.

The Honourable Government House Leader before we adjourn.

MR. JORGENSON: Mr. Speaker, if I may indicate that I will be calling this bill as the first order of business when the session resumes this afternoon.