ISSN 0542—5492

Fourth Session — Thirty-First Legislature

of the

Legislative Assembly of Manitoba

STANDING COMMITTEE

ON

LAW AMENDMENTS

29 Elizabeth II

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

MONDAY, 14 JULY, 1980, 2:00 p.m.

Printed by The Office of The Queen's Printer, Province of Manitoba

MANITOBA LEGISLATIVE ASSEMBLY
Thirty - First Legislature

Members, Constituencies and Political Affiliation

Name	Constituency	Party
ADAM, A. R. (Pete)	Ste. Rose	NDP
ANDERSON, Bob	Springfield	PC
BANMAN, Hon. Robert (Bob)	La Verendrye	PC
BARROW, Tom	Flin Flon	NDP
BLAKE, David	Minnedosa	PC
BOSTROM, Harvey	Rupertsland	NDP
BOYCE, J. R. (Bud)	Winnipeg Centre	NDP
BROWN, Arnold	Rhineland	PC
CHERNIACK, Q.C., Saul	St. Johns	NDP
CORRIN, Brian	Wellington	NDP
COSENS, Hon. Keith A.	Gimli	PC
COWAN, Jay	Churchill	NDP
CRAIK, Hon. Donald W.	Riel	PC
DESJARDINS, Laurent L.	St. Boniface	NDP
DOERN, Russell	Elmwood	NDP
DOMINO, Len	St. Matthews	PC
DOWNEY, Hon. Jim	Arthur	PC
DRIEDGER, Albert	Emerson	PC
EINARSON, Henry J.	Rock Lake	PC
ENNS, Hon. Harry J.	Lakeside	PC
EVANS, Leonard S.	Brandon East	NDP
FERGUSON, James R.	Gladstone	PC
FILMON, Gary	River Heights	PC
FOX, Peter	Kildonan	NDP
GALBRAITH, Jim	Dauphin	PC
GOURLAY, Hon. Doug	Swan River	PC
GRAHAM, Hon. Harry E.	Birtle-Russell	PC
GREEN, Q.C., Sidney	Inkster	Ind
HANUSCHAK, Ben	Burrows	NDP
HYDE, Lloyd G.	Portage la Prairie	PC
JENKINS, William	Logan	NDP
JOHNSTON, Hon. J. Frank	Sturgeon Creek	PC
JORGENSON, Hon. Warner H.	Morris	PC
KOVNATS, Abe	Radisson	PC
LYON, Hon. Sterling R.	Charleswood	PC
MacMASTER, Hon. Ken	Thompson	PC
MALINOWSKI, Donald	Point Douglas	NDP
McBRYDE, Ronald	The Pas	NDP
McGILL, Hon. Edward	Brandon West	PC
McGREGOR, Morris	Virden	PC
McKENZIE, J. Wally	Roblin	PC
MERCIER, Q.C., Hon. Gerald W. J.	Osborne	PC
MILLER, Saul A.	Seven Oaks	NDP
MINAKER, Hon. George	St. James	PC
ORCHARD, Hon. Donald	Pembina	PC
PARASIUK, Wilson	Transcona	NDP
PAWLEY, Q.C., Howard	Selkirk	NDP
PRICE, Hon. Norma	Assiniboia	PC
RANSOM, Hon. Brian	Souris-Killarney	PC
SCHROEDER, Vic	Rossmere	NDP
SHERMAN, Hon. L. R. (Bud)	Fort Garry	PC
STEEN, Warren	Crescentwood	PC
URUSKI, Billie	St. George	NDP
USKIW, Samuel	Lac du Bonnet	NDP
WALDING, D. James	St. Vital	NDP
WESTBURY, June	Fort Rouge	Lib
WILSON, Robert G.	Wolseley	PC

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS
Monday, 14 July, 1980

'ime 2:00 p.m.

:HAIRMAN Mr. Gary Filmon (River Heights).

MR. CHAIRMAN: We have a quorum, so we will ıroceed with appearances by delegations on the hree bills that are going to be considered by the .aw Amendments Committee today. The three bills ıre Bill No. 77, The Family Law Amendment Act; Bill Jo. 78, An Act to amend The Executions Act, The County Courts Act and The Provincial Judges Act; ınd Bill No. 80, An Act to amend The Payment of Vages Act and The Real Property Act.

BILL NO. 77
THE FAMILY LAW AMENDMENT ACT

MR. CHAIRMAN: We begin with presentations on 'he Family Law Amendment Act. The first name I ıave is Alice Steinbart. Is Ms Steinbart here? Okay, f not, then the second name that I have is epresenting the Manitoba Association for Rights and .iberties, Mrs. Evelyn Shapiro. Mrs. Shapiro, would ou like to come forward.

Incidentally, if any of the delegates have briefs that hey would like to leave with the committee, then ılease do so at the beginning so that they can follow ılong.

MRS. EVELYN SHAPIRO: I'm sorry, but mine is in he process of being typed. Unfortunately, you will ıet if after. I have a feeling that the delay is ıccasioned by my marvellous handwriting and so, 'm sorry, but only part of it is typed and I'll read the est.

MR. CHAIRMAN: That's fine.

MRS. SHAPIRO: I want to divide my presentation ıto two parts, one in which I look at the legal ıspects which I have done conjointly with the Manitoba Association for Rights and Liberties. At the ame time, also, as part of the brief, indicate to you ome of my personal responses to this Act growing ıut of my own experience in working with the elderly ınd those who are becoming elderly.

The Manitoba Association for Rights and Liberties vishes to comment on certain aspects of Bill 77 lealing with The Parents' Maintenance Act. It is felt 'art III of the proposed legislation furthers lependency in the adult population of the province ıf Manitoba. This legislation is divisive of the family, eopardizes individual entitlement to social ıllowances, and presents administrative difficulties.

Bill 77 further expands the category of "dependent ıarent". Presently, under The Parents' Maintenance Act, a parent is deemed dependent "where by eason of age, disease or infirmity, he is unable to naintain himself." It is now proposed to define a 'dependent parent" as "a parent who requires ıssistance for support and maintenance and

(a) is widowed and or does not have a spouse; or

(b) has a spouse but for any reason, is not receiving support from the spouse."

With this legislation, an expanded category of adult Manitobans is reduced to dependent status, a status analogous to that of dependent infants under The Family Maintenance Act. The Association objects to this degradation of the status of adult Manitobans. We further point out that there is no reciprocal obligation placed by this legislation upon parents to support needy adult children. This lack of reciprocity is, even within the terms of this legislation, surely inequitable.

There is concern that this proposed legislation jeopardizes individuals entitlement to provincial and municipal social assistance, that with Bill 77 provincial and municipal welfare authorities will make the bringing of court actions under the proposed subsection 15.3(1) a condition precedent to assistance. The authorities will themselves be given carte blanche to bring actions under subsection 15.3(1) as "any person" will be authorized to apply for a court order "on behalf of a parent". Welfare costs which arguably should be borne by society as a whole are to be placed, by means of court orders, directly upon the children of the needy. The effect of this legislation is predictable in its retrogressive effect.

The Association suggests that the proposed legislation is highly divisive of the family. The courts should not be an instrument of intervention in the relations of parents and adult children. It would be difficult to imagine situations in which it would not be highly demeaning for parents to launch actions under subsection 15.3(1). Even more demeaning then to both parent and child would be an action launched on behalf of the parent by welfare authorities. It is suggested that whatever vestiges of filial regard and hopes for future voluntary support and maintenance which might exist would quickly be extinguished by court action.

Under Bill 77 judges are, in effect, made administrators of social welfare schemes. It is suggested that the legal training of judges ill-suits them to be social workers. Under Bill 77, courts of law are to be saddled with the duty to determine "reasonable" orders of support and maintenance under the proposed subsection 15.4; only some of the factors affecting the order are detailed.

The phrase "all the circumstances of the parent, the parent's spouse, if any, and the person or each person, as the case may be, who has the obligation under section 15.1", presents the possibility of a nightmare of inconsistencies and inequities as between different cases.

That is speaking to the legal aspects. I want to now indicate to you some of the human or people aspects.

Acts, generally, in their specific language don't specify what will happen to people under those kinds of Acts. So I thought I would review with you, who was likely to be affected, how they will be affected

and what are likely to be the outcomes when people are affected in this way.

The people who will be affected by this legislation are both pensioners and non-pensioners. That is pensioners who might be eligible for social allowance, occasionally or all the time. Either because they have specific larger needs than their means allow or because they have occasional needs of high expenditure which exceeds their ability to provide for them.

Non-pensioners who will be affected will be primarily parents, aged between 50 and 65, especially women who more often find themselves with inadequate financial resources and need to come to some public agency for assistance in meeting their needs.

Now how will they be affected? First of all, when applying for help, because they are in need, they will likely be told that they must either go to their children for help or prove that their children cannot help them. That is plainly, ladies and gentlemen, to either go begging, demanding or suing, either on their own behalf or the suit being launched on their behalf by someone else. Now, I want you to think about yourselves in that regard and whether you would like to be placed in that position because that is what the legislation proposes to do to people.

Second of all, if they refuse to co-operate, they will have insufficient food, and/or insufficient lodging, and/or insufficient medications, or glasses, or hearing aids, or what have you? Many many people will take this road rather than beg, demand or sue their children. And if we want people in need to do without, then that's exactly what we're proposing to do.

Third of all, if they accept begging they lose their self-esteem, their dignity and their standing and status within the family. Nobody can maintain the status as an adult, as a senior member of a family, when you have to go to your children to beg, or demand, or sue them for what you need.

If they accept action on their behalf by another party the results may be financial help but the consequences may be devasting and sometimes as well counter-productive for what you yourselves are seeking to achieve. The reason that's going to happen is it's devasting because by alienating children through animosity, anger and/or being perceived as a source of the family's more straitened circumstances, especially now in high employment and high inflation times when most families are finding life difficult enough as it is, you automatically will provoke anger and resentment and constraints between family members.

The other thing that may happen, and that likely will happen, is that the family may refuse the help with non-financial services which many families render to their parents without even being asked. In other words, I don't know whether you gentlemen and ladies are familiar with the fact but despite, for example, the program such as home care, it is children, by and large, and family members who provide most of the care, the bulk of the care, when their elderly parents get sick, either temporarily or on the long-term basis. Now children, if they are really forced to and become alienated enough, will not provide those services that we've learned to expect from them and which they give willingly.

Third of all, when the parents will give up their former status as head of the family, or senior member of the family, and when they lose face vis-a-vis their children and their grandchildren we are not providing society with an appropriate kind of atmosphere. The parents contribute to society by their work, by their taxes, or by raising their families. Should society now demand that they lose there dignity or do without if their finances are inadequate to meet their needs.

We used to many years ago, many years ago, we used to have "deserving and undeserving poor". Those of you who have seen My Fair Lady know that some of the people even preferred to be the undeserving poor, but we changed that. Instead of alms houses accepting only those people who lived "right", but accepting people because of their need, we changed as we got smarter and chose to recognize that poor was poor, whether deserving or undeserving, and to judge by whom.

Now this Bill proposes that we have "deserving" and "undeserving" parents no matter what the consequences to the parents in loss of self-esteem, loss of independence, and, as we will soon unfortunately discover, loss of life through self-neglect or self-destruction.

You think, probably, that the latter may seem exaggerated. What parent is going to destroy themselves or neglect themselves because they refuse to go to their childrn. Well, you underestimate, ladies and gentlemen, the self-sacrifices many parents are prepared to make for their children, and the importance of their own independence to all of us. We can shame people only so far.

This Act is destructive to parents and to families. It is no wonder, gentlemen and ladies, you have to ask yourself why, when we already had an Act on the books that was not as punitive, why it was never enforced, and why there is maybe one case in the last ten years that came under the old Family Maintenance Act. It is no wonder that even the minimal provisions of the old Act were rarely implemented.

I must say to you that with its disastrous consequences for people who only, but for the grace of God, go you and I. I would cringe to be reminded, if this Act were passed, that I live in Manitoba.

MR. CHAIRMAN: Thank you, Mrs. Shapiro. Will you submit to questions from the Committee.

MRS. SHAPIRO: Yes.

MR. CHAIRMAN: Mr. Corrin.

MR. CORRIN: Mrs. Shapiro, have you studied the provisions of the Act that allow a person, other than the parent, to initiate a proceeding? Are you concerned that this could be used by welfare authorities?

MRS. SHAPIRO: That is what I indicated in my presentation. There is no doubt in my mind.

MR. CORRIN: I am sorry, I missed the first part. Also, in terms of the emotional aspects of that I take it then that you had some opinions in that respect?

MRS. SHAPIRO: Well, I can speak to you, not only from my years of working with older people, but I speak to you as a parent of that age. If I had to go to my children and ask them to support me or have another agency sue them on my behalf, I would rather myself starve. I think there are lots of other people, more people are like me, regardless of their other attributes, than are not like me.

MR. CHAIRMAN: Mr. Adam.

MR. ADAM: Thank you, Mr. Chairman. I understand you want a question asked. Mrs. Shapiro, did the government consult with your Association before they brought this legislation; was your group contacted to get your views on this particular legislation?

MRS. SHAPIRO: Well, I'll answer that in two parts. No, the Association was not contacted, nor to my knowledge were people like myself who have had experience in working with aging and elderly people. I also want to indicate to you, on top of that, that you are talking about an Act that in a sense has been dug up gratuitously. We had an Act on the books, it was rarely employed. Why all of a sudden would you suddenly dig up an old Act, which nobody was using to any extent, and try to then add on to it and enlarge it, when the most likely answer to the reason that it wasn't being used is that people were uncomfortable enough not to use it? It's like we would be digging up the old Poor Act.

MR. COWAN: Thank you for your brief, Mrs. Shapiro. I'd ask you in relationship to your comments, do you believe therefore that this Act is not only antiquated but is unnecessary and unworkable?

MRS. SHAPIRO: And counterproductive. Children are now rendering enormous services to their parents willingly, and ably and effectively and those who don't want to, you cannot force in that kind of way, because when you force them to provide financially is when you really succeed in alienating them completely if they haven't chosen to do so of their own free will.

MR. COWAN: That would be alienating them from their parents.

MRS. SHAPIRO: That's right.

MR. COWAN: I would ask you if you could not also foresee alienation within the spousal relationship in the fact that according to the provisions, siblings who are outside the province do not come under the authority or the jurisdiction of this Act and siblings who are within the province do, and that could possibly create friction between the siblings themselves. I wonder if you could comment on that.

MRS. SHAPIRO: Well, I must say that I was not aware of that. I was under the impression if you're sued, you can be sued anywhere. My response to that is, it certainly would be divisive of families if they weren't sued, plus the fact that I think that it would be interesting if they can't be sued, how many children will choose to leave the province? I mean, already we have quite a few people leaving. I would venture to say . . . and I also feel lucky that both children don't live here.

MR. COWAN: The population loss has been noted duly from time to time in this House and I do believe that this could possibly add to such a phenomenon and I would agree with you in that respect.

I would ask you to give an opinion, and that is why one would suppose that the government would bring this sort of legislation forward, in your own personal opinion, as it seems to be a common consensus right now that it will be counterproductive, that it will be alienate, that it will have a number of negative aspects and not be used very much. Why would you think the government would bring something like this forward at this day and age?

MRS. SHAPIRO: Well, I agree with you until you get to the last part. I'm not sure that it won't be used very much. If I knew it wasn't going to be used I wouldn't really worry about it at all and I wouldn't be here; I'd be at work. I'm afraid it might be used only too often. I think that would be the only reason for enacting it and going back to revise it. I cannot go into guessing why this government would do it. I would only venture to say that it goes along with the old philosophy of both the deserving and the undeserving poor and of, contrary to the evidence, assuming that people who are on welfare are employable when the evidence indicates that most of them are not. Now there are people who idealogically are convinced that's not true, regardless of how many economists have pointed this out. And I guess they have their right to the their own opinion, regardless of the facts.

My own feeling is that most people on welfare are there because they cannot work or because they have no resources and are unable to find any, and that people don't go lightly to apply either when they're older or when they're younger. I feel even moreso about the elderly and the older who are even less likely because they've been brought up in a society which regards work as critical and do not want to ask for charity if they can at all avoid it. It's that group that we're proceeding to punish and frankly, I'm at a loss to figure out why this has been unearthed from the depths of where it should have disappeared ages ago.

MR. COWAN: We share that sense of loss with Mrs. Shapiro. You suggest that the government would intend to use this, or might intend to use this.

MRS. SHAPIRO: I can't see any other reason why they'd want to enact anything. I mean, it just stands to reason that you'd want to use it.

MR. COWAN: What sort of problems would you foresee outside the alienation?

MRS. SHAPIRO: Well, I see the biggest problem as people starving and being evicted from their houses because they are not going to ask their children and they're going to refuse to have the agency sue on their behalf. And they'll sit there with their tea and toast or with nothing to eat and they will just neglect themselves. I think that to me is the most concerning

consequence. It's bad enough that you can't talk to your children and they're being dunned on your behalf, you're not going to get into that situation, you're going to sit there and not eat. You're going to live in some hovel that you shouldn't be in and I think that to me is inhuman. I think it's punishing people for not having money.

MR. COWAN: So you would suggest that the major danger, and perhaps even an imminent danger in this bill, is that the government might use this vehicle to release themselves from certain societal obligations or obligations that they have now to support people who are, due to economic circumstance and not personal circumstance, are forced onto welfare or forced into a subsistence existence.

MRS. SHAPIRO: That's the only possible reason I can see.

MR. COWAN: Thank you very much.

MR. CORRIN: We understand and appreciate that the delegate is opposed to this legislation on the basis of principle as well as obviously a history of involvement with people who are both poor and aged. Mrs. Shapiro, notwithstanding the fact that you're unsupportive of the legislation, I want to ask you whether you can find any merit in the fact, and maybe you've already considered this, that in the section dealing with factors affecting an order that a judge may make, there is no provision for the history of the family relationship. In other words. there's no requirement that the court consider when making an order, and Mrs. Shapiro, I'm only asking you this question because I'm presuming that the government majority will succeed in having this bill assented to. Given the fact that there is no factor with respect to the history of the family relationship and the efforts of the parents made to support the children, does that strike you as being equitable? Does it strike you as being appropriate and just that a parent who had been neglectful of her duties with respect to the upbringing of a child could then, in later life, call upon the child to support her, maintain her, even though she had not done the same for the child. How does that strike you in terms of its effect on society and the child?

MRS. SHAPIRO: Well, you know, it's interesting. It's a very difficult question that you're asking because I have such a basic objection, not only to the Act, but in allowing a court to decide what is equitable and what is appropriate. To me, I don't know which is worse and you're really asking me which is worse, to really look at previous alienation or previous incapacity of the parents or inappropriate treatment of children and having them respond on that basis, or whether exactly this Act will succeed in alienating other parents and families in exactly the same way I mean it's like I can't respond to that question.

I really came here not so much to seek amendments, but to indicate to you that if the bill is passed, there isn't an amendment in here. It's doing all kinds of things in terms of letting judges do what I think is inappropriate for judges, to doing to people what is inappropriate for people, and I can't see anything that's going to make this Act acceptable. It just is not an acceptable Act. The old Act wasn't acceptable either, but nobody bothered with it so the situation never arose. Nowadays, of course, the old Act doesn't really matter, because 20 is something that doesn't matter anymore in terms of money almost anymore.

So that I really can't deal with your question. It is inconceivable to me that anybody sitting in this room cannot imagine themselves running into a situation which is something that happens to a lot of people, which is finding yourself without money and without resources. Our times are certainly bad enough for you to be able to see that happening to people that you know, and it is inconceivable that you will then ask them and refuse to give them help before they go and they beg or they dun or they bang down the doors of their children. It doesn't make any sense for us as human being. Most of us in this room look to me like my age. I don't know whether you all look older because the Session has been so long, but you look about my age. I mean, would you want that to happen to you?

MR. CHAIRMAN: Thank you, Mrs. Shapiro. Mr. Mercier.

MR. MERCIER: Mrs. Shapiro, I take it you are aware there has been a statute in effect in Manitoba for some 50 years.

MRS. SHAPIRO: Right.

MR. MERCIER: Are you aware that in the existing legislation, and Section 10 of that legislation reads as follows, "Proceedings may be taken under this Act by an officer of the Department of Welfare duly authorized for that purpose by the Minister of Welfare, etc., in the case of a person who is in need or an inmate of a hospital, a home for the aged and infirm, house of refuge or institution for the care and treatment of persons who are mentally disordered, be by the governing body of any hospital, home, house, or institution, to which reference is made in Clause (a), or any other charitable institution in which the dependent is an inmate, or by any municipality in which the person entitled to maintenance under the Act resides." That is in the existing legislation, which is being appealed, which has not been included in the existing Act.

MRS. SHAPIRO: Well, the reason it hasn't been included, I presume, is because we now have hospital insurance, we now have nursing homes insurance, and as I indicated to some people and I certainly wrote to the Press, the fact is before nursing home insurance we had situations in which two elderly men were actually placed on the sidewalk because their children refused to pay for them and they were liable because they had power of attorney over the parents' funds. In effect, those people were placed outside on the sidewalk and it wasn't until everybody start screaming that they were placed back in the home. The government never collected from the children, but the fact is the children never came ever to see their parents after that.

My view is that when a person is elderly and sick it is far more valuable for at least the children to

continue seeing the parents, even if they are robbing them blind, than not to see them at all and still rob them blind.

What I am saying to you is, the old Act never came up for discussion because it was, as far as I can remember, until very recently never used, so who cared what was in it, you see. Then, of course, insurance also obviated the necessity for a lot of those other subsections.

MR. MERCIER: Your concern, as you indicated, is that a government or some Ministry within the government might use the provisions of the Act on behalf of parents against children?

MRS. SHAPIRO: That's right. The two ways it is going to be used it is going to be used that way. In other words, it is going to sue on behalf of parents, or it is going to tell parents, either you demand or sue or get, or you won't get anything from us. That is what scares me. They are going to be denied help when they come with a need, because they will say, listen, according to what the information you are giving me, your children can afford to maintain you, and you go and ask them for it.

MR. MERCIER: Are you aware of that ever happening?

MRS. SHAPIRO: No, because nobody even tried ever to enforce it, because I mean in practice that was not what was done. That is why the old law was never called into effect, but why would you resurrect an old law and rewrite it unless you wanted to apply it?

MR. MERCIER: Are you aware there was apparently a case under the old Act last year?

MRS. SHAPIRO: That's right, but I don't think there had been one for about ten years previously. Unfortunately, the time has been so short that I haven't been able to check thoroughly into it, but my understanding is that there have been no other cases like that for about ten years, so would you amend an Act for the possibility of using it once in ten years? My feeling is nobody would do that. They would put in an Act if they really wanted to do something specific about something now.

MR. MERCIER: Mrs. Shapiro, I indicated to the Legislature the other evening that the decision with respect to this Act was either to repeal it or to amend it to simply bring it up to date to conform with existing courts and court procedures, that there was no intention on the part of the government to in any way use this Act on behalf of the parent, but that there was, as in the case last year and I just suspect this, because it is a private proceeding in family court, it appears that there are some instances, I think particularly when you consider the ethnic origins of some people who have a very strong tradition of children assisting parents, and where that tradition is not followed through, in those cases parents might make what I agree would be a very difficult decision to actually bring an application against their children. That is the position of the government. Those are the reasons why it has been updated procedurally. There could in fact I'll suggest this to the Committee after could be an amendment in this Act to make it clear that let me just follow the wording of the existing Family Maintenance Act, where in 15.3(1) it says "a parent or any person on behalf of a parent," we have left out the previous Section 10. We could very clearly eliminate the words "or any person on behalf of a parent" so that it had to be the parent, and therefore confine it to those instances, not very few in number, but instances where parents feel there is a definite obligation on behalf of the children because of the tradition, because of assistance, because of transfers of property that may have occurred between them, to leave it there to be used in those very few isolated instances and never to invoke it by the government against children.

MRS. SHAPIRO: Well, it certainly would relieve some of it. I must tell you, though, there is one concern that I have, and that is that legislation is not only related to the intent, it is also related to what happens to it subsequently. In other words, you may not have the intent that it be used by Social Allowances to refuse help unless they go to their children, but in effect there is nothing to stop some Minister to provide that direction to his staff one year from now or five years from now or two years from now, so that in effect having a law on your books does empower things to happen which you may then choose or not choose, but that is what allows it to happen.

My feeling is that there probably are, and not being a lawyer I don't know, that there are probably other ways in which parents can have recourse to the courts in terms of access to their children's money than having a Family Maintenance Act. In other words, they may not even have to be destitute in order to do that. There may be other ways in which parents can sue their children for money for their upkeep, even in a style to which they are accustomed and they happen to be rich. So I don't know that this is the appropriate vehicle for doing that job. It sure does something else that I think is worrisome, but I don't have enough legal know-how. I mean I hope I am making myself clear. I don't know the law well enough to know, but I suspect that there is some way that that can be done.

MR. MERCIER: Thank you very much.

MR. CHAIRMAN: Mr. Corrin.

MR. CORRIN: I just wanted to bring to the Minister's attention that if he is considering proceeding later this afternoon in that regard, that he will have to make revision to 15.5(1) as well, because it consistently talks about third persons on behalf of parents, so there will have to be a host of amendments that are presented. I am just anticipating an amendment might be proceeding from the Minister and he should consider all of those.

MR. CHAIRMAN: Thank you very much, Mrs. Shapiro. The next delegation we have, Mr. Tom McLeod from the Age and Opportunity Centre.

MR. TOM McLEOD: Mr. Chairman, I'm just here to say that the Age and Opportunity Centre supports the principles identified by the Manitoba Association for Rights and Liberties and the presentation made by Mrs. Shapiro.

MR. CHAIRMAN: Thank you. Any questions from the committee? Mr. Sherman.

HON. L.R. (Bud) SHERMAN (Fort Garry): Mr. Chairman, I wonder if I could ask Mr. McLeod one or two questions. Mr. McLeod, when you say that the Age and Opportunity Centre supports the position taken by the Manitoba Association for Rights and Liberties, I assume that means that you support the brief that was just presented by Mrs. Shapiro essentially in its entirety. Is that correct?

MR. McLEOD: We would support the principles that are in that statement, yes.

MR. SHERMAN: Would you support the statement that the Association suggests that the proposed legislation is highly divisive of the family?

MR. McLEOD: In the terms that Mrs. Shapiro described of a family member, a parent, being put in a position of suing their children, yes.

MR. SHERMAN: Would you consider that a situation in which a parent is living in squalor and a son and daughter is living in relative affluence, cynically and irresponsibly ignoring the condition of the parent, would you consider that situation would not reflect an already divided family, a family in which there had already been division to which very little additional division could be added?

MR. McLEOD: Mr. Chairman, if I could, I'd like to answer that question. I'm a last minute replacement for our executive director who is ill. Would it be acceptable for me to answer that speaking for myself as a worker who has been with older people for some 10 years. Is that acceptable?

MR. SHERMAN: It certainly is by me, Mr. Chairman.

MR. McLEOD: A little uncomfortable speaking for the agency at that point. It's been my experience that if the family situation has deteriorated to that extent we have been, as workers, sometimes successful in getting the children to fulfill obligations. It has been my personal experience that the adult parent is generally very much against that and unless there is some kind of family or personal joining together of the family again, the money part would just make it worse and totally irretrievable.

MR. SHERMAN: Mr. McLeod, the Manitoba Association for Rights and Liberties also suggests that it would be difficult to imagine situations in which it would not be highly demeaning for parents to launch actions under subsection 15.3 (1). Would it be the Age and Opportunity Centre's view that, given the circumstances that I have described, where a parent is living in squalor and a son or daughter is living in comparative affluence, that situation is not already highly demeaning for that parent. In fact, what I'm asking you is, is it not already demeaning to live in squalor?

MR. McLEOD: Again, I will reply for myself, sir. It's been my experience that the social services and moneys available to people do not allow that condition to happen too often right now, and that people that do live in squalor to some degree choose it.

MR. SHERMAN: In which case, if they chose it, it would be unlikely that they would bring action against a son or daughter for financial support. Is that not correct?

MR. McLEOD: That would seem to follow, yes. I think it would be unlikely in most cases at any rate.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. McLeod, just one brief question. I take it when you say you agree with the previous brief that your main concern, too, is that government, some ministry within government or some institution on behalf of government, would invoke this obligation to put pressure on parents to make applications for maintenance from their children.

MR. McLEOD: It certainly would be a concern that the choice be taken from the adult elderly person, yes, that the decision be made by a government person as opposed to the individual.

MR. MERCIER: Do you have any objection to the parent making that decision all by himself or herself?

MR. McLEOD: I would certainly be much more comfortable with the parent making the decision than the government or its representatives.

MR. MERCIER: Thank you.

MR. CHAIRMAN: Thank you, Mr. McLeod. The next person that we have who indicated a desire to speak and I've called her before, but I wonder if she has arrived now. Alice Steinbart has not arrived. Is there anyone else who wishes to appear on Bill No. 77.

If not, we will move along to Bill No. 78. I have an indication that Robyn Diamond of the Family Law Subsection, Manitoba Bar Association was wishing to speak. Is she here?

BILL NO. 80
AN ACT TO AMEND THE PAYMENT OF WAGES AND THE REAL PROPERTY ACT

MR. CHAIRMAN: If not, we will move on to Bill No. 80, An Act to amend The Payment of Wages Act and Real Property Act, and we have on behalf of the Manitoba Federation of Labour, Mr. Dick Martin. Do you have a brief for the committee, Mr. Martin?

MR. DICK MARTIN: No, I don't. This is a verbal representation on Bill No. 80. Mr. Chairman, committee members, I am appearing on behalf of the Federation of Labour on The Payment of Wages Act.

In particular reference to the proposed changes to the Act, Item 7(6) and 7(7), we are very much opposed to. It appears to us with the addition of these subsections to The Payment of Wages Act that the worker, in fact, has been placed right at the bottom of the tier in recovery of any moneys owing to him or her in the case of a bankruptcy. By bringing your attention to Item 7(6), where it says that any mortgage registered in a Land Titles Office prior to (a) the filing of a Certificate of Judgment pursuant to subsection 4 or Item (b) the filing of a caveat pursuant to subsection 5 has priority to the Lien for Wages, except for advances made on account of the mortgages after the Certificate of Judgment or caveat was filed in the Land Titles Office.

We are most definitely opposed to that as we feel that mortgage companies, banks and trust companies can likely afford to suffer a loss because of a firm's bankruptcy, rather than a worker who has been working there for a period of time can suffer a wage loss. Quite frankly, I don't understand the thinking behind this type of amendment, nor to Item 7(7) which is, in my understanding, that machinery or other goods that have had a lien or caveat placed against them by a supplier also have priority to wages. I would ask then how much money would a worker be able to collect from a bankruptcy, in the event of a bankruptcy, when mortgage companies and trust companies and banks and other suppliers have had the first choice to the moneys owing.

I would suspect that not much money would be left at all to it. I would also think that in terms of the bankruptcy and considering the economic conditions at this time across Canada, that we are going to see more bankruptcies, in particular in terms of small firms, manufacturing firms and construction companies, and those people are going to be the people that are employed there that are going to suffer from an amendment such as this. I don't see, on behalf of the Federation, why the Act has been changed to the way that it is going to read at this point.

With me is Art Coulter, Executive Secretary, that I've also called on to add anything I've missed. As you can see we don't have a long submission. It's very straightforward. We request you leave the Act the way it was and give the workers' wages priority over mortgages and any other judgments that are made against the firm.

MR. COULTER: Mr. Chairman and members of the committee. Well, the Federation of Labour have been interested in this type of legislation for a very very long time and it took a lot of convincing to move the position of workers to the head of the list. And that's our concern that now you wish to take it away. It seems there is a complete reversal in thought and principle, I guess, as to who is most deserving, the individual that is putting his sweat to do the job, to provide the revenue for the company. After they have done that, then they are going to be deprived of their earnings in that respect. So this seems to be a very very low type of an attack on workers, with preference given to other monied interests. It's just as simple as that. We can't see as any other way. And if that's the way you wish to proceed with the thing it's, there's only one way one can take it, that you have no respect for working people at all. You want to bow to those with the money and that's of concern to us.

Now, in pursuing this some time back, before we got this legislation to the extent it is at the present time, we said government if they wished could cover the situation for workers by providing an insurance program for employers that went bankrupt. We have insurance programs for agriculture, for crop loss and what have you. Many millions of dollars of it. I would suggest that you might give some consideration to providing a little bit of reserve there for employers that become bankrupt so that workers will not suffer the loss of their wages. We put this proposition before government previously and it can simply be done, an easy way to make an assessment against employers, make an assessment against farmers and those that wish to be insured under different programs.

We think it should be mandatory for government, being the legislative body, to bring in such type of legislation to make it mandatory that wages be ultimately paid. We not only suggested it as a proper means, but we suggested that it would be a means by which workers would be able to be paid instantly and the Crown, if it had a case to collect down the road a year or two after the receivers have dealt with the bankruptcy, if they could collect anything or any share of it, it would go toward the fund. But surely it's not too much to ask that workers' wages be protected and insured. The fact that we got the legislation to the extent it is now satisfied us to a considerable degree, not totally, and I suggest to you that if you're going to go ahead with this, which I think is a direct attack at working people, then you had better think again and see what you can do about protecting them by some form of insurance.

Thank you.

MR. CHAIRMAN: Thank you, Mr. Coulter. There are questions, I believe, from the committee for either Mr. Martin or Mr. Coulter. First, Mr. Cowan.

MR. COWAN: I'll address my question to Mr. Coulter, Mr. Chairperson. Mr. Coulter, you indicated that this policy was brought in by the previous government, or the changes to the Payment of Wages Act. Can you indicate at that time, and I'm certain you were aware of the discussions, deliberations and the committee hearings, as to why the previous government felt it necessary to bring in such an Act, in order to protect wages in the event of a bankruptcy?

MR. COULTER: Well we were able to, we presented . . .

MR. CHAIRMAN: On a point of order, Mr. Mercier.

MR. MERCIER: Mr. Chairman, unless the Member for Inkster and his allegations are totally correct, then how can Mr. Coulter advise the committee as to what the government's intentions were?

MR. CHAIRMAN: He wasn't a member of that government I would say. Mr. Cowan.

MR. COWAN: I assume that was a point of order?

MR. CHAIRMAN: Yes.

MR. COWAN: On the rather frivolous point of order, and I know that the Attorney-General does enjoy indulging in such from time to time, I can only suggest that any person who was concerned and aware with what the government was doing would make themselves aware of why they believed such actions to be taken. I am certain that the MFL as well as other bodies representative of working people were consulted, as should bodies be consulted by every government when it makes legislation which is going to be particular to a certain body within the society. So I would hope that Mr. Coulter would not take any offence from the frivolous remarks from the Attorney-General.

MR. CHAIRMAN: I think it would be fair to say that you could ask Mr. Coulter why he agreed or disagreed with the legislation brought in by the previous government but not why they brought it in, because he wasn't a member of that government and wouldn't be privy to that information. So would you like to rephrase that question then and we'll all be . . .

MR. COWAN: No, I wouldn't like to rephrase the question, Mr. Chairperson, but I would like an answer from Mr. Coulter in regard to why he believed such legislation was brought forward by the previous government.

MR. CHAIRMAN: Was necessary, or not necessary?

MR. COWAN: Would you prefer to ask the question? I mean, if you can do it better, go right ahead.

MR. CHAIRMAN: Please go right ahead.

MR. COWAN: Mr. Coulter please.

MR. COULTER: Well, Mr. Chairman, and members of the committee, there's no question, we had case after case after case where workers were not getting their wages as a result of bankruptcies. It's as simple as that. We had some very pathetic cases, large in number, groups of employees, after working for considerable time for an employer being deprived of their earnings when they came to try to collect it down the line, a month later or two months later.

That's the reason why we're lobbying for improvement in the legislation. We're thankful that we got some and I've already said that we didn't get the ultimate because I think that there should be legislation to say that there should be a protection against all wages that are earned properly. Business should be expected to support that type of an arrangement. They've got insurance on every other thing and I suggest to you that it wouldn't be that costly to provide for insurance on the broad scale through a levy on industry to guarantee and assure the immediate payment of wages when wages are not forthcoming, and that the department has got the staff and the mechanism to pursue claims of that regard. If they are successful, to the degree that they are successful, then that would be returned to the fund, and that is what we suggested some years back, and it sure couldn't be more than necessary if you are going to approve this bill the way it is, which relegates workers to a non-existence, I guess, when it comes to divvying up the spoils of any particular enterprise.

MR. CHAIRMAN: Thank you, Mr. Coulter.

Mr. Cowan.

MR. COWAN: Then, if I understand the situation correctly, Mr. Coulter, before this Act was amended or before this Act was put in place to protect the workers earned wages in the event of a bankruptcy, workers were, in fact, in the event of a bankruptcy, losing their wages and therefore there was a necessity to protect those wages by one of two means, either this means or a bankruptcy wage insurance.

I would ask, Mr. Coulter, then if you would expect that once these provisions are removed that we will revert back to that situation and that workers again will find themselves at the mercy of whatever economic forces, come before them in regard to placing a lien on the assets of the firm that is going bankrupt, and will in fact, due to the provisions within the amendments, lose their wages and be confronted with a situation that we were confronted with before the passing of The Payment of Wages Act?

MR. COULTER: Well, I am sure that employers will become aware of the change and say, well, this is an easy way out, we can continue to try to function and to operate. If we go further in the hole, you know, we are not going to be any worse off, and those that we may have concern with in the money interest, they are going to get theirs first. You know, it turns the thing right around as far as I am concerned, complete disrespect for the workers that are involved. You will be encouraging employers to provide that disrespect by pursuing the thing at a longer state. That is what is disturbing to me.

MR. COWAN: I thank Mr. Coulter for answering the questions and ask a question of Mr. Martin. In his presentation, Mr. Martin indicated that he believed that, given the economic conditions of the day, and he referred to them in the Canadian context although I am certain it is a much broader context than that, that there would be more small firms and more construction companies suffering bankruptcy and therefore these changes in these Acts were coming and these are my words at perhaps the worse possible time.

I would like Mr. Martin to, if he can, indicate, in his experience over the past number of years, if they are starting to see those sorts of bankruptcies come forward and having an impact on the MFL membership as well as other working persons who are not affiliated to the Manitoba Federation of Labour.

MR. CHAIRMAN: Mr. Martin.

MR. MARTIN: Mr. Chairman, I wouldn't say that in our experience at this particular point but we do know that smaller construction companies are going out of business every day. I don't know what the

figures are for closures of construction companies and small manufacturing firms but I don't think there is any disagreement by anyone that we are facing some economic harsh realities in the economic life of the country, not only within the province but across the country. But what really concerns me is two things. First of all, that jobs are very very difficult for people to find, so an employer will say to his employees, I can't make the payroll this week but could you hold off until next week and I think I can make the payroll. Those people are rather reluctant to quit that job and go and try to find another job because there isn't any other job to go and find. So in fact the amounts of money owing to the employee then become larger and then, at some particular point down the road, whether it two weeks, a months, two months and wages are owing, the employer finds that they have to go bankrupt and the employee is sitting there with 2,000, 3,000, 4,000 owing to them.

It seems to me that a worker has a lot of obligations in terms of just taking care of the family, that it is going to very very difficult to in fact take care of, rather than a mortgage company or a bank or trust company that seem to me to be in a lot better financial position, judging from their profit picture in the last year, than ordinary people are going to be, in order to suffer such a loss. That is what happens in economic hard times, that the problem compounds itself and I fail to understand . . . I saw Mr. Mercier shaking his head, when I was putting the presentation forward, that it was wrong. Well, I ask how am I wrong? How are we wrong? We see that deletion out of Act, "every mortgage or real or personal property" and we have additions in 7(6) and 7(7) that in fact priorities are given to mortgage companies, trust companies and banks. I fail to understand. It seems to me that the role of government is to be trying to take care of the little guy, rather than the big guy, and the big guy is certainly the mortgage companies, the banks, and the trust companies.

If I am wrong, then I would like to hear so.

MR. CHAIRMAN: Mr. Cowan.

MR. COWAN: As I understand it, Mr. Martin, the MFL, as well as individual unions, many times work as advocates for workers who may find themselves in the situation where they may be forced to use the provisions of The Payment of Wages Act. In your experience and in the experience of your membership, do you have any idea of how many times it has been necessary for workers to use the protection afforded them under The Payment of Wages Act in regard to receiving what was due to them and what was not coming to them due to a bankruptcy of the employer they work for?

MR. MARTIN: No, I can't give you actual figures, because most of those instances would be taken care of not by the Federation of Labour but by the local unions that those persons may belong to.

Unfortunately though, with old cases, those that are unprotected are going to be effected the worse. We, in fact, are really not making necessarily that strong a representation on our membership. Our membership within the Federation of Labour are highly organized and, in many instances, are capable of taking of themselves. Where this is going to effect people is those people or those employees that are in fact not organized and are not in any unions at all, that are working for smaller firms and organizations, that don't have any clout atall, and are at the complete mercy of the employee and/or the courts. Whereas, as I said before, that it seems to me the job of government in cases such as that is to try to take that into account and act as a guardian of those people.

Of course, the final thing on it is that if they can't recover their wages under The Payment of Wages Act, they will, if unable to find another job or in the event of even finding another job, be forced on the public welfare system and in fact having the public subsidize those people, through no fault of their own but is the fault of legislation and their employers or the trust companies having the public take care of them in the meantime until they get back on their feet, which is, in my opinion, another way of subsidizing the private sector.

MR. COWAN: The MFL and the affiliates, as well as other unions, I assume watch legislation very closely and are advised of the provisions of The Payment of Wages Act as it stands now, and by being so advised we can assume that their membership are advised from time to time or when it becomes necessary for them to have that advice from their staff reps, from the legislative departments within the unions. So I would ask Mr. Martin, just to confirm my opinion or my perception, that among organized labour the majority of workers would know of this particular legislation and the protection afforded them under it, either through their staff representatives or through the legislative departments of their unions, and if it became necessary, if it looked as if the plant were going to be forced into bankruptcy or an employer were going to be forced into bankruptcy, they would be so advised of these provisions by their staff representatives or by their umbrella organizations?

MR. MARTIN: Well, I am not going to pretend that all of our members of all of our unions at this particular time know about this amendment. We haven't widely advertised it, although the construction association, Winnipeg Building Trades Council, Mr. Leo Desitels, I think, is on the record to make representation here today, although unfortunately he is tied up in other affairs and isn't going to be able to make representation. But the construction unions are very much aware of it and, I can say, totally opposed to any legislation such as this.

The second thing is yes, if this legislation does pursue, we will advise all of our members about this legislation and what the effects of it are going to be.

The third item, though, is that it is also going to create difficulties within the collective bargaining process, because if we don't have the Act within the legislation that we have at this present time, then we will be forced to go to other measures within collective bargaining in order to request that employers have bonds placed in order to have payment of wages. It seems to me that it is just another way of making the collective bargaining

process a lot more complicated than it has to be, rather than leaving it at this present time. It seems to me that all governments are trying, or at least say they are trying to expedite the collective bargaining procedure an make it work better. This is simply throwing the gears into the collective bargaining process and that will be an item on the negotiating table that employers will have to place bonds, at least in certain industries and certain companies, in order to make sure that the members of that union are in fact paid the full wages due to them.

MR. COWAN: Perhaps I can just clarify the last question. I appreciate the information Mr. Martin gave me but what I would like to know also is if, in the event of a bankruptcy, workers who are part of an organized labour force, either in an association or a union, would be advised before the bankruptcy actually occurred, in most instances, of the provisions of The Payment and Wages Act as it stands now? Let me just indicate to Mr. Martin, Mr. Chairperson, why I ask that question. It is my understanding, both from personal experience as well as from observation, that from time to time an employee of a firm realizes that the firm is suffering economic difficulties and may, in order to protect their job and as Mr. Martin said, it is becoming more and more difficult to get jobs nowadays so this would become even more of a factor, given the economic constraints and restraints of the day but in order to protect their job will decide to work for a certain period of time without drawing their full pay cheque. They will either decide to perhaps only draw half of it or perhaps draw none of it for a two or three week period in order to see the company or attempt to help the company through what may be a temporary economically difficult time. They would do so now because they know that in the event that the company did go bankrupt, they would be afforded the protection of The Payment of Wages Act.

I would ask Mr. Martin if he would comment on what would tend to be an observation that if this Act is amended as it is and does not afford those workers that protection, that they will in fact then be more inclined to refuse to carry the company for a certain period of time because they know that they may not be able to collect their wages, that the companies holding the mortgages on the assets of the firm would come before them, and they would hesitate therefore to do their best to carry a company through an economic time and this may in fact create bankruptcies where bankruptcies need not exist.

MR. MARTIN: I would say that to some degree is a correct assumption, although I still think that employees want their companies to operate; obviously it is not any good to anybody if the company is not operating. I think what probably, as I said before, it will tend to take place more; that employees in fact will have an equity in that company because they have foregone wages because of the economic difficulties and then they won't be able to collect on those wages. Although I think that it is only common sense to think that, at the same time, they might be less prone to do that because they know that they don't have any mechanism in there to recover those wages that are in fact owing to them, as they do at this time.

I certainly reinforce or restate what I have said. They would be lucky on the provisions of this Act to receive any money at all in the event of a bankruptcy, because I would assume that the company is going bankrupt because of outstanding debts to mortgage holders or to people that are holding large caveats on machinery; so there wouldn't be anything left, they could just forget about it. In most instances, I would advise them to go and find another job without even proceeding through the courts, because of the amount of debts in a bankruptcy situation such as that. So I guess that gives you an answer; you are partially right.

MR. CHAIRMAN: Mr. Cowan, I am just wondering, we are starting to get into that area where a lot of what you are saying is sort of putting words in Mr. Martin's mouth, and perhaps you would like to put those words to the Committee when we debate it. If you have some succinct questions based on his brief, then we will proceed; if not, perhaps we should go on.

MR. COWAN: I thank you for your advice, Mr. Chairperson. I assure you I have known Mr. Martin for some time and have never once been able to put any words in his mouth, but if I am succeeding at this point . . .

MR. CHAIRMAN: Well, that doesn't stop you from trying.

MR. COWAN: . . . then either he's weakening or I'm getting better at it, and I don't think either is the case. So I would just ask a few more questions and surely not attempt to lead Mr. Martin in any respect whatsoever.

Mr. Martin, in your opinion then, this places the worker in a double dilemma. In other words, if the worker were to decide to continue working they would have to do so with no protection and if the worker did decided not to continue working, they might force a bankruptcy where a bankruptcy could have been avoided if the worker had been afforded the protection to be able to work an extra couple of weeks. Without putting any thoughts or words in your mouth, is that what right?

MR. MARTIN: Well, Mr. Cowan, I've given you the answer. The answer is I think that they're going to be in a more difficult situation with the new proposed legislation than they are at this present time. That, in fact, the debts are going to be further outstanding to the worker and the worker will have no way of recovering them, which is the double whammy, so to speak, on it. It's affording all the protection to the mortgage companies, banks and trust companies and I don't see any to the workers.

MR. COWAN: One last question then, Mr. Chairperson. It's been suggested by some that this Act does not actually act to the detriment or the amendments do not act to the detriment of a working person, of an employee. I would, for the record, ask Mr. Martin to comment upon that very briefly, the suggestion that this in fact changes

nothing and that it will not have any sort of negative impact on a working person or an employee in a situation or bankruptcy.

MR. MARTIN: Well, that's totally wrong, totally wrong, it's misrepresentation of the bill.

MR. CHAIRMAN: Thank you very much. Monsieur Adam.

MR. ADAM: Merci beaucoup. Mr. Martin, it brings a point where perhaps you may be able to advise me on whether the fact that an employee is unable to obtain wages because he doesn't have a guarantee in the legislation that those encumbrances will be dealt with firstly in event of a receivership; but if there is a company in receivership and there is no protection for the employee and he has to go to unemployment because the company is closed, look for another job and he can't find another job, isn't there some problems there because there is perhaps some money that may be coming some day in the future, back wages, until a receivership is settled?

As well, what happens if the person has to go to social assistance? Is there not some problems there that would be compounded because of the fact that there is no protection and social assistance says, well, you're going to have some money coming in two years' time, perhaps, after the whole thing is settled. I'm just wondering whether we're not compounding some further problems for employees and workers of this province by removing that provision from the Act.

MR. MARTIN: I don't think I can give you a totally satisfactory answer to that, except that it would be questionable if an employee quit a company that was in receivership but the company was still operating in the receivership, but he was having a difficult time getting wages, he may be classified under The Unemployment Insurance Act as quitting and having to wait for a longer waiting period in order to receive UIC benefits. I am not sure to the other part of your question in terms of moneys owing. Perhaps it would be considered moneys owing and somehow or other someone would try to place a lien against that moneys owing in order for them to receive any assistance. But I'm not sure on the answer, but obviously, you raised some other concerns that compound it.

MR. CHAIRMAN: Thank you, Mr. Martin. Mr. Corrin.

MR. CORRIN: Mr. Martin, I don't know whether you were here on Saturday. Were you here on Saturday to hear the presentation made by Mr. Cvitkovitch on behalf of the it's something like the Manitoba Mortgage and Loans Association?

MR. MARTIN: No, I wasn't here.

MR. CORRIN: This gentleman appeared as a delegation on behalf of the commercial interests that are affected by this particular piece of legislation. I queried him with respect, particularly to his representation of mortgage loan insurers, those people who don't directly provide loans but rather insure loans to mortgage lenders, so these people protect through insurance which they sell to lenders, those lenders from losses sustained as a result of bankruptcies and so on and I asked him whether or not it was the practice of most of his clients to take insurance where it was available and I believe he indicated that it was. I think we agreed that it was available with respect to both low and medium risk loans. It isn't quite the case that mortgage lenders are limited only to their interest in the security they have taken, the actual property security they have taken, but they also have recourse to loan insurance that allows them to recoup all their losses, simply by paying a premium which, by the way, he admitted was passed on to the consumer, the borrower. So the borrower paid the premiums and is what I want to ask you. I asked him whether he thought, as a representative of the insurance association and the lenders, whether or not consumers, ordinary working people who took loans on their homes and so on, would feel very badly about having to pay a little bit more by way of premium, and I presume it would be rather a nominal, but a little bit more because the government had chosen to place workers before mortgage lenders. Would a person feel that it was intolerable that an additional fraction of a percent be added to the principal of their mortgage and amortized over, say, 20 or 25 years? Let's put in in its blundest terms. Would a person feel that paying 2 or 3 or 4 maybe a month for this sort of protection would be too much? Because it seems to me that it comes full circle, obviously there is a method by which at least the mortgage lenders can be fully protected. It goes right back to the consumer who are the same working people who want the government's protection. Do you think that it would be too much, that the average working person that you represent would feel that was too much of a burden and would be unwilling to pay the premium?

MR. MARTIN: You're speaking of the mortgage holder themselves, as a homeowner, if they would be prepared to pay 3 or 4 a month for insurance protection against a default in their mortgage?

MR. CORRIN: Right.

MR. MARTIN: Of course not, I'd certainly be prepared to pay it, as a mortgage holder, and I would assume everybody else would be prepared to pay it, although also at the same time, if you're talking about premiums of insurance companies to protect the mortgage lender, well all of us are going to pay that, too, at the same time, that's what they're doing. It seems to me what we're doing here on this proposed legislation, perhaps maybe not only protecting the mortgage and trust companies but, in fact, protecting the insurance companies, too, because they aren't going to suffer near the loss that they might have before because the worker comes last.

MR. CHAIRMAN: Thank you very much, Mr. Martin. Mr. Corrin.

MR. CORRIN: I was wondering and I'm not familiar whether this is the case or not, but in collective bargaining agreements do unions ever require, or is it the practice that unions are able to require, a

disclosure by the employer of all its debts so that the union could be made aware of any credit obligations outstanding by the creditor, so that they would know, to be specific, that they had taken loans by way of mortgage or debenture and so on to various amounts and they were courting this sort of risk when they worked for that employer. Because it seems to me that some employers probably are more stable and more solvent than others and from the worker's standpoint, I suppose, it would be of some assistance if this legislation is to pass. It would be of some assistance for them to know whether their particular employer was one of the solvent ones or one of the ones in a high-risk category. I'm just wondering what you think of that. Do you think if this legislation goes through that it would be fair, in the collective bargaining process, to demand that employers reveal the state of their indebtedness?

MR. MARTIN: In answer to your first question. In good times we'd never get a statement; out of bad times, when the tears are rolling, we can usually get a statement. In terms of having a full financial picture disclosed, it will become, as I said before, it's going to compound the difficulty and complexities of collective bargaining by passing such a law. That will certainly be an item on the table, just in some collective agreements just signed, the bonding of the employer was made a priority in the negotiations and if this is passed, it will. It infringes upon collective bargaining once again with no necessity for it as far as we could see. We haven't heard of any difficulties; we had no employers make any representation to us that they thought that this was a bad law. In fact, good employers quite frankly would, I am sure, prefer to see their employees, if they are going bankrupt, obtain any moneys left over rather than a mortgage company or a trust company. A good employer would try to see to that. Under this legislation, I would see that it might become rather difficult in order to do that.

MR. CHAIRMAN: Thank you, Mr. Martin.

MR. WILLIAM JENKINS (Logan): Thank you, Mr. Chairman. I have a question to Mr. Coulter.

MR. CHAIRMAN: Just a second. I think Mr. Mercier had a question for Mr. Martin.

MR. COULTER: No, it's okay.

MR. CHAIRMAN: Okay, that's fine.

MR. JENKINS: Mr. Chairman, what is the procedure here?

MR. CHAIRMAN: Well, I just didn't want to have this gentleman going back and forth if we were finished with Mr. Martin, then he could . . . Okay, that's fine. Mr. Mercier says he'll come . . .

MR. JENKINS: Thank you, Mr. Chairman. Since the Act we're dealing with here is a changing of an Act which gave priority to payment of wages, which was passed I believe in 1975 or somewhere around that time, giving payment of wages first priorities against firms going into bankruptcy or receivership, what has been the experience of the collection of wages since the passage of that Act, to what the experience was prior to the passing of that? In other words, has it been easier for workmen being owed wages since the passage of the legislation in 1975? When we talk about collection of wages, we have to realize that the workman doesn't always settle for 100-cents on the dollar, he sometimes settles for less, but has the experience been better since the passage of this legislation than it was prior to the passage of this legislation?

MR. COULTER: It's obviously been better because we haven't had the number of complaints and cases that have been written up in the press, as a matter of fact, that we had previous to this. So it's obviously taking care of many more situations than it did otherwise.

MR. JENKINS: Where would you see under the provisions of Section 7 dealing with priority of wages 7(1), 7(6)(7), the questions we had the other day was a difficulty of maintaining a register. Would you not agree, Mr. Coulter, that the employee is one of the last persons to find out that a company is going into receivership?

MR. COULTER: That's hard to say. It has been experienced before, I guess. Some of the major cases where it was public knowledge there was a company in difficulty, trying to continue and having the co-operation of the workers behind them to get themselves through, only to end up with the sad result that things went bad in any case and the workers were without their wages. But since the Act has been changed, I think employers are probably more conversant or more concerned with the situation because we haven't got the number of cases that we did before and I would have to look at the record of the department as to what success they've had in dealing with complaints for recovery of wages. I'm sure that they would have a far better record and much more substantial return under this Act than they would before, because they have the priority in listing them, and when you sidestep them as this Act does, then they're going to be at the bottom of the list and they'll virtually get nothing. That's exactly what you're contemplating here by passing this legislation.

MR. CHAIRMAN: Thank you.
Mr. Mercier for Mr. Coulter, I think.

MR. MERCIER: Well for either one of the gentlemen, whoever chooses to answer. Let me indicate, Mr. Chairman, the concept of an insurance scheme probably sounds to me, at first glance, like a much more equitable scheme because I ask Mr. Coulter or Mr. Martin would they not concede that there may very well and are, in fact, individuals probably within the Federation of Labour or other individuals, who at some stage take their lifesavings or savings as they go along in their productive years, invest those moneys in mortgages and have virtually all of their assets tied up in a revenue producing mortgage and they, under the existing legislation, could also lose their money.

MR. COULTER: Well, first of all, I don't think you get individual workers covering mortgages for business. I think that would be the very very exception, if there was such a situation. I think it's the larger institutions that go into that type of business. It's the trust companies and banks that are able to extract some pretty heavy interest on that type of credit for business that are the ones that would be involved, not the little individual that might have a buck to invest. I think that is so farfetched that it's not even worth considering. In this context of this bill, dealing with payment of wages, you're dealing with employers generally.

MR. MERCIER: Mr. Coulter, are you saying that you wouldn't concede that there is not the possibility of any individual in Manitoba who has their money invested in a mortgage which might have occurred even on the mortgage back on a sale of property to a small business, a medium-sized business?

MR. COULTER: Well, if there were, and I'm sure that anybody that does lend money whether its a trust company, a bank or an individual, they are contemplating taking a certain risk and they're going into that venture on that basis, knowing that there is a risk. And what better deal they can get of it, in the way of interest or whatever, then they will do so. But surely that's their business, that's their function. That's not the function of a worker who works for an employer for wages to keep bread on the table for his family. That's a different situation altogether and that's what we're concerned with.

MR. MERCIER: Mr. Coulter, you're probably aware of the history of this legislation. Last year there was a bill brought in to this committee which would have given priority to all registered emcumbrances, not just registered mortgages or registered personal property security interest. You're aware of that?

MR. COULTER: Yes.

MR. MERCIER: And that in committee we agreed that provision should only come into effect upon proclamation and we would refer the matter to the Law Reform Commission for their recommendations; you're aware of that?

MR. COULTER: I'm aware of that.

MR. MERCIER: And are you aware, Mr. Coulter, that the Law Reform Commission recommended that we enact or proclaim what was brought forward last year?

MR. COULTER: I'm also aware of that and I'm also aware of whose interest the Law Reform Commission generally represents. It's corporate interest not the little individual, as far as I'm concerned. Our experience has been that way totally and in a situation like this money talks. That's what lawyers get paid for, you know, generally pretty well, and that's the business they're in. As far as I'm concerned, the Law Reform Commission, in dealing with this question, sure as hell weren't doing anything with it on the basis of the daily bread on the table for the worker that's doing the work.

MR. MERCIER: I assume when you're making that remark that you're aware that there are five or six lawyers in the opposition and one on . . .

MR. COULTER: Well, there are some exceptions. I don't tar them all with the same brush, you know; yourself excepted at times, too, you know.

MR. MERCIER: Mr. Coulter, are you aware of, the other day, on Saturday in fact, one of the members referred to it, the delegation on behalf of the Mortgage Loan Association referred to two legal cases, one in the Supreme Court of Canada involving a B.C. case and one in the Manitoba Court of Appeal, which overruled the legislation in B.C. and the 1975 legislation here in Manitoba. And he said in fact that all this legislation was doing was confirming what in fact the courts have said. The courts have said that registered mortgages have priority over wage claims under this Act and that the legislation is, in fact, just confirming what the courts have said and in fact he went on to criticize the bill for not going further and attempting to establish priority over other registered claims.

MR. COULTER: I would agree with the criticism that the legislation should be airtight so that wages are number one. You're dealing with the Act now; you should make that provision and make the legislation sound so that the Supreme Court, even, can't shift it. You have that within your power, I'm sure, to do.

MR. MERCIER: Thank you very much, Mr. Coulter.

MR. CHAIRMAN: Mr. Corrin.

MR. CORRIN: Mr. Coulter, I'm just wondering and I don't intend to be facetious but seriously, as an experience collective bargainer and I presume you are that and given the fact that the government has moved to give priority to mortgage lenders and other secured creditors over wage earners, I was wondering during the course of collective bargaining whether we might also expect that unions, when making their demands and requests, will consider the making of a demand that an employer provides security by way of a mortgage on its premises or on other lands that it owns, in order to circumvent the provisions of this particular legislation. Do you think that responsible bargainers might consider requiring that in order to assure that the people they represent are given priorities similar to those now being extended, and on the same basis as those being extended to . . .

MR. COULTER: They've been there before you. There are agreements now that provide the employer to provide a bond of certain extent to cover wages and those are few in number but they are brought about with the collective bargaining process and cold facts and experience of the past, where I don't know, some of you are probably a little more aware of it than others but it was quite common for contractors to have a bankruptcy every year or every other year so you'd have construction company A, B, C, 1976 Ltd. and after that he is 1978 Ltd.; everything else goes by the board and he's still driving his Cadillac, you know, this type of thing. So that unions have

tried to protect themselves in that way but, as we've said before, unions that are confronted and have problems may be able to take care of themselves. We're not here precisely to protect those; we're concerned with those individuals that have no unions and individuals that are on their own and are probably at the lower end of the wage scale, insecure employment, that need the wages to keep the bread on the table of their family, that's the ones we're concerned with.

MR. CHAIRMAN: Thank you vey much, Mr. Coulter. Mr. Barrow.

MR. BARROW: Thank you, Mr. Chairman, it doesn't matter whether it's Mr. Coulter or his partner, the question I was going to ask of one of you was how much it would effect and the reply was of course that the wage structure, whether they would agree to take half their cheque, or maybe none of it, for a period of a month or two and this is what they'd lose. Is this all? I've seen about saving plans, some corporations and companies have saving plans, where a percentage of the wages go in a savings plan and you can't draw it out unless you quit or are fired, or retire. Would it effect that kind of a thing?

MR. COULTER: Well, I presume that anything that you have owing would be affected.

MR. BARROW: It would go down the drain.

MR. COULTER: In whatever form, sure.

MR. BARROW: And what about pension plans?

MR. COULTER: Well, I'm satisfied that The Pensions Act pretty well covers that, that there are certain provisions there that guarantee or make the employer responsible for leaving certain guarantees.

MR. BARROW: Even vacation funds, they would disappear too.

MR. COULTER: Well, vacation pay is the same as wages, no difference.

MR. BARROW: Yes, right. I get the impression from both you and Mr. Martin, you imply very subtly that the government is anti-labour. Is this right?

MR. COULTER: I wouldn't want to suggest that at all.

MR. BARROW: You wouldn't suggest that?

MR. COULTER: I wouldn't want to suggest that, no. I said before, I think, that its one of disrespect for workers that work for wages and that's different from an anti-labour attitude, as far as I'm concerned. I think it is a basic principle that where do you put your principles first, in support of the corporation or in support of the individual?

MR. BARROW: Well, isn't it quite obvious?

MR. COULTER: Well . . .

MR. BARROW: Mr. Martin, I address to you: Your Minister of Labour is from your hometown; don't you think you could impress him to take this clause out somehow?

MR. MARTIN: Well, I will be making representation to the Minister of Labour. It does come under this committee and under Mr. Mercier's discretion but certainly, as I've alluded to, it is going to, if it passes, be placed in the collective bargaining and that's certainly a jurisdiction of the Minister of Labour. The Minister of Labour, it seems to me, wouldn't welcome it; he's got enough problems, as all of us have, in terms of making the collective bargaining function work properly. So I would say yes, that he has and his department has a vested interest in not seeing this bill passed.

The only thing I'd like to add to Mr. Mercier's question was that he was talking in terms of some of our members having investments in mortgages and such, well, first of all, I think Mr. Coulter answered that. Our conception of how much money our members make is not shared by myself having that investment but, in all seriousness, I think that you have to look at the investment that an individual has in a company, in terms of being an employee for many many many years, virtually much of their life, and all of a sudden the company is declared bankrupt; their investment in that company is out the door and those who did not have a big portion of their lives mainly, once again, trust companies and banks are given the priority. I think it's really to this committee and to the government, is where are your priorities on it to protect the individual, the smaller guy, or protect those large companies that are well able to afford losses in a bankruptcy and in fact are insured in many cases in the bankruptcy; that's the question I think that's before you.

MR. BARROW: So you're saying the older employee would take the beating.

MR. MARTIN: Well it could affect the younger employee or older employee; it certainly could affect someone who is just about ready to retire.

MR. CHAIRMAN: Thank you very much, Mr. Martin. Mr. Mercier.

MR. MERCIER: Mr. Chairman, if I just might ask one brief question. I take it other than this concern over the priority, the other provisions of the bill are satisfactory?

MR. MARTIN: Yes, except in 7(1) where you have taken out the mortgage in order to dovetail it to 7(6) and 7(7). I don't have a lot of other opposition to it, but it seems to me if you left that, 7(6) and 7(7) deleted, that you would essentially be leaving it the way it was.

MR. CHAIRMAN: Thank you, Mr. Martin. Is there any other representation that is here before Committee?

MR. COULTER: We should leave you with the message that Mr. Leo Desilets, the President of the Winnipeg Building Trades Council is in Calgary and

he was intending to be here making representation, but their unions are affiliated with Manitoba Federation of Labour and we are speaking on their behalf as well, and they, as I have referred in some of my remarks, construction workers are the most vulnerable in this regard.

MR. CHAIRMAN: I appreciate that very much. Thank you, Mr. Coulter.

BILL NO. 77
THE FAMILY LAW AMENDMENT ACT

MR. CHAIRMAN: Since there are no other speakers, then we proceed to consider the Bills in numerical order. Firstly, Bill No. 77. Page by Page? Bill No. 77. Mr. Corrin.

MR. CORRIN: I don't know whether the Attorney-General was being facetious or not, but obviously we are not going to go page by page through this particular piece of legislation, so if we could please have the first Clause read.

MR. CHAIRMAN: It wasn't the Attorney-General who suggested it, it was another member of the Committee, but we will be happy to go through it Clause by Clause.

MR. CORRIN: I apologize then to the Attorney-General.

MR. CORRIN: Clause 1 pass Mrs. Westbury.

MRS. JUNE WESTBURY (Fort Rouge): Could we not go page by page, and if someone wants on a certain page to go Clause by Clause that person can say so. Do we have to do every page Clause by Clause?

MR. CHAIRMAN: I am at the disposal of the Committee. There is now an indicaton Mr. Corrin that we ought to go page by page, except where there are amendments or concerns about particular Clauses.

MR. HENRY EINARSON (Rock Lake): Mr. Chairman, I made a suggestion that we go page by page, and I consider where it comes from when Mr. Corrin made comments in regard to the Attorney-General, and I don't think that anyone else is objecting to it. I have heard other comments here that we go page by page, and I would say that if there is a particular Clause on one page that we can stop for it.

MR. CHAIRMAN: There is no intention on my part to not permit any relevant discussion, Mr. Corrin, so if you wish to stop at every Clause on a particular page, that's fine.

MR. CORRIN: I will be helpful, Mr. Chairman, I think that the Attorney-General suggested, and it was a useful contribution, when talking to Mrs. Shapiro, that he might be willing to move some amendments. Now if we knew, in anticipation of reaching various Clauses, what amendments were going to be forthcoming, I think then we could give you an indication of what areas of concern we have.

MR. CHAIRMAN: I think they have just been distributed now, so if you can take a moment to review them. Mr. Mercier.

MR. MERCIER: Mr. Chairman, if I can just briefly then refer to the amendments which have just been distributed, which confirm my comments to the Legislature the other evening in closing debate on this Bill, that in Section 2, 15.3(1) we would delete the words "or any person on behalf of a parent" to make it clear that our intention was only to update the procedures under this existing legislation to conform to ixisting procedural requirements in the courts.

And on Page 3 in Section 15.5(1) to delete the reference "or to a third person on behalf of the parent" to make it absolutely clear, if there is any concern, that the government or a ministry in the government, or institution on behalf of government, would somehow become involved in requiring parents to make applicatons under this Act, and thus reduce the amount of assistance they might receive.

The Act has been in effect for some 50 years with a specific provision relating to municipalities and institutions, and as far as I am aware that has never been used, and we have not included it in this Section, and I suggest that the amendments would make it crystal clear that only the parent would have the right to make this application.

MR. CHAIRMAN: Mrs. Westbury.

MRS. WESTBURY: Mr. Chairperson, I wanted to ask a question relative to 15.2. Can I do that now?

MR. CHAIRMAN: Well, perhaps we should consider Page 1 and then we will move right on to that, okay.

Page 1. pass; Page 2 Clause 15.2.

MRS. WESTBURY: All right. It says here "Dependent parent" defined, but in the Act, which this is amending, under definitions, Definition 1(c), it says, "Parent includes a person standing in loco parentis to a child". Now it does not say that definition doesn't apply in 15.2. Unfortunately the Attorney-General was away on other business when I made my speech, but I suggested that therefore this definition, if it applies the way I think it does, means that it could include the father, the husband of the mother, or the real father, if such was the case, of a child, or it could include a foster parent if the parents deserted or anything else happened, if there were foster parents for six months looking after the child, 30 or 40 years later the child could be required to provide for those foster parents, and if the child was ultimately adopted it would also mean those parents, and, of course, when the child marries it includes the in-laws and all the various shadings of the same sort of applications.

I want to know whether, in fact, under 15.2 the definition there, which of these various parents it means; and are we in fact going to have possible cases where an illegitimate child, a child whose fatherhood is in question and I said at the time it is a wise man that knows his own father are we

going to have instances where a grown child could possibly have six or more parents to whom they are required to contribute, plus the same number of inlaws, and unless that is clarified for me, I am going to get quite excited.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Chairman, the intention to confine it to parents, period, not as in loco parentis. I appreciate the comments of the Member for Fort Rouge and we will attempt to work out a clarification of that in the form of an amendment.

MRS. WESTBURY: Yes, if you can go back to 1(c) of the Act and clarify it there, I think maybe that is where you would want to clarify it.

MR. CHAIRMAN: So if we added it after 1(c), except where it refers to Clause 15.2 in Bill 77 . . .

MR. MERCIER: Perhaps we could add to that paragraph something to the effect, "but does not include a person who stands in loco parentis". Would that be satisfactory?

MRS. WESTBURY: I think you would also have to have some further definition which lawyers are better able to arrive at than I am, because it is possible that one set of parents might bring a child up for its first years and another set of parents for the child's remaining .

MR. CHERNIACK: Mr. Chairman, on a point of order, we can't hear at this end. I just had a little meeting, we can't hear.

MRS. WESTBURY: I am sorry. Does this help you here? It is possible that one set of parents could raise a child for its first years and then, through circumstances, the child could be raised for the remainder of its years by another set of parents. This happens, it is not a rare occasion, it is not common either, but I do think that there has to be some better definition even than what has been suggested in response to my first question, so that a grown child, in fact, is not placed in a position of having to contribute to more than one set of parents. I mean that's even if all of the rest of it passes the definition is not acceptable.

MR. MERCIER: Mr. Chairman, we will attempt to work on a clarification of that matter and if the Committee agrees raise that matter just a little later.

MR. CHAIRMAN: Is that satisfactory then for the present until a definition is arrived at?

Is there anything else on Page 2?

MRS. WESTBURY: Yes, Mr. Chairperson. 15.3, the amendment suggested strikes out "or any person on behalf of a parent", I suppose that would not stop a parent through his solicitor?

MR. MERCIER: No.

MRS. WESTBURY: No, okay, thank you.

MR. CHAIRMAN: Mr. Corrin.

MR. CORRIN: I wanted to speak, Mr. Chairman, with respect to 15.1 (2). This is the section that imposes a joint obligation on children to support parents. It is my understanding, Mr. Chairman, that a joint obligation is one that is, if it is a word, unseverable; it is joint in the sense that each person bears an equal responsiblity in the sense that it is 100 percent of the whole, much in the same way as joint titles are inseverable or unseverable.

In this regard, I am wondering in view of the fact in the wording of the section, how we are going to effect the intent of the section when children who have left the province will be beyond the bounds of the legislation, will not be capable of being made the subject of an application under this legislation. It seems to me that effectively that vitiates the intent expressed in the provision that the obligation be a joint one.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Chairman, the advice that I have from the law officer is that it could be enforced outside the province.

MR. CORRIN: The obvious question: How would that be done?

MR. MERCIER: Through the Reciprocal Enforcement of Maintenance Orders.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I would like to get it clear. Do the law officers say that a child, a 30-year-old child living in California, can be compelled to pay maintenance to a parent in Manitoba if that child is not submitted to the jurisdiction of a court in Manitoba? Is it suggested that a California court will enforce a Maintenance Order against a child for support of a parent if there is no such law in California and therefore, I assume, no reciprocal understanding? Is it correct that we can enforce jurisdiction over a non-resident, even a non-national, say a U.S. citizen? Is that what we are being told?

MR. MERCIER: Mr. Chairman, we have more reciprocal of enforcement of order agreements with the States than with any other province. I thought we had yes, the State of California is a reciprocal state under the Act and the Act refers to maintenance orders against dependants.

MR. CHERNIACK: Mr. Chairman, I can understand that, that a parent being responsible for a child is a law acceptable, I assume, in the State of California, and I picked an obvious case, not an extreme one. I could have certainly referred to that child in Timbuctoo we all know about, but I am dealing with what is a very common occurrence, and I am wondering whether before you know, a parent is responsible for a child's maintenance. That is a standard accepted law in many jurisdictions, but here we have a case of a very unusual provision and the suggestion is, I think, that a proceeding can be commenced in Manitoba against a US citizen residing in the US, domiciled in the US, and that my commencing an action here and obtaining, let us

say, an order on the basis that there was no defence, there was no submission to the jurisdiction, that would then be enforced by a California court. Is that what we're being told?

MR. MERCIER: Mr. Chairman, there is no change in this. This legislation has been in effect for some 50 years and it's been possible to do what the Member for St. Johns is suggesting for the last 50 years, that you could obtain an order for maintenance and that you could attempt to enforce it by way of the reciprocal enforcement and mandatory legislation with a reciprocating state. Now, those agreements haven't been in effect for 50 years, but there's no change in that.

MR. CHERNIACK: Can the Attorney-General refer us to as precedent of an order being enforced.

MR. MERCIER: No, I can't.

MR. CHERNIACK: No.

MR. CHAIRMAN: Mr. Hanuschak.

MR. HANUSCHAK: Mr. Chairman, I'm not sure that I understand this point clearly. I was under the impression, Mr. Chairman, that the reciprocal enforcement of agreements, as is defined, means that there's a reciprocal agreement between provinces, between various jurisdictions for the enforcement of a similar type of agreement. In other words, the example used by the Honourable Member for St. Johns, an order for the maintenance of a child, which is quite common in all jurisdictions, so likely in Manitoba and in California. So if the child is in Manitoba, the father responsible for the support of that child moves to California but the State of California would honour that order of maintenance and enforce it within its jurisdiction. But suppose even in a province or a state between which and the province of Manitoba there exists a reciprocal enforcement of a maintenance agreement, but suppose its a jurisdiction which does not have legislation similar to the one that we're presently dealing with now, would that jurisdiction honour and enforce such a maintenance order passed and pronounced under this Act within that foreign jurisdiction?

MR. MERCIER: Mr. Chairman, I'll have to reserve in part because law officers are unable to advise me fully, but maintenance order in the Reciprocal Enforcement of Maintenance Orders Act is defined as an order for the periodical payment of money as alimony or as maintenance for a wife or former wife or reputed wife, of a child, or any other dependent of the person against whom the order was made. Now, I appreciate what the Member for Burrows is saying and I'll have to seek some time to answer that question in full when I get advice from the law officers.

MR. HANUSCHAK: Will the Minister respond or give us his answer to that before this committee completes dealing with this bill or, in other words, could we defer the final disposition of the bill until such time as the Minister comes back with an answer to our question, our concern?

MR. MERCIER: Well, that's up to the committee.

MR. CHERNIACK: Once we're getting this opinion from the law officers, it seems to me that when you have a reciprocal agreement it relates to what is known and this old 50-year old archaic law that we've discussed already is not part now of a reciprocal agreement. Now, I may be wrong but my impression is that that orders under that law are not part of the reciprocal arrangement and it seems to me that if you enter into a reciprocal agreement it has to be reciprocal on what is known.

Could it be that we could pass a law making a complete stranger a dependent under this law and then that complete stranger suddenly becomes a person who is a dependent, under the definition read to us by the Attorney-General, and therefore enforceable against a person who was so far removed geographically from the courts of Manitoba that he couldn't possibly fight it? No, we take a person who, you know, we could call him Kasser, and he appears somewhere in a reciprocal agreement state, and we then name him in our law as being a person on whom someone is dependent; can we then go ahead and enforce it against him? It seems to me (Interjection) The suggestion is that we could name Kasser as the dependent and enforce it against someone else.

But seriously, Mr. Chairman, the important feature to the questions that are being asked is the point that was raised during the question period, when the brief was presented, as to whether or not this is going to be divisive as between children of a parent where one child, because he or she happens to live in Manitoba, is under the thumb and under the gun, and the other children get away scot-free. If you have, let's say, 10 children, nine living outside of Canada and one in Manitoba, that one will then carry the burden for the other nine. That's why the question is, I think, both relevant and important. We should understand what law we are passing and what the effect of the law is.

MR. MERCIER: Mr. Chairman, I said I appreciated the question from the Member for Burrows, and we'll get an answer to that question from the law officers of the Crown. I think they'll need an opportunity to look at this specific agreement as an example.

MR. CHERNIACK: Mr. Chairman, the reason I spoke after the Member for Burrows and after the Attorney-General was to elaborate the question, which I think was in order, but moreso because the Attorney-General suddenly gave up responsibility for the conduct of this bill and he said, when asked whether we could get the opinion before we deal with the bill, he said, well, that's up to the committee. Well, the Attorney-General, to my mind, sort of gave up his responsibility for the conduct of the bill when he submitted it to the committee, and that's really why I pressed the question.

MR. MERCIER: Mr. Chairman, could I suggest this as a way of proceeding if the committee was in agreement: We have a queston raised by the

Member for Fort Rouge and the same question, I think, raised by the Member for Burrows and the Member for St. Johns.; if the members could indicate, without passing the sections, indicate if they have any other similar legal questions, I could undertake to get the answers and to bring the matter back later on and we'll defer dealing with it until we get that?

MR. HANUSCHAK: Yes, one further question, related to maintenance orders. Suppose one of the children of the parent, who is responsible for the maintenance of his parent, is a member of the Holy Orders, that has no property, no assets in his or her own right and there are many cases of that kind would such an order be enforced against that priest, monk or nun?

MR. MERCIER: Mr. Chairman, this section refers to the financial wherewithal of the child, who in this case, I take it, is the monk or member of the holy order; in that case, obviously, no.

MR. HANUSCHAK: So you wouldn't enforce it against the church?

MR. MERCIER: No, there would be no financial means there.

MR. HANUSCHAK: And that may be the only child, of that parent resident in Manitoba, so . . .

MR. MERCIER: It's just like a maintenance order for a wife or a child, if there's no money; you can't get blood from a stone.

MR. CHAIRMAN: Mr. Adam.

MR. ADAM: I don't have a legal point, Mr. Chairman, but an example of a parent who has not lived up to their obligation, their responsibility of raising their children and that there has not been any close family ties or connection over the years, and then you find children that are successful and suddenly being called upon to support and maintain people who have not been responsible to them in their upbringing, in their early years. And this, to me, could happen under this kind of legislation and, to me, it would be objectionable to me if that happened. I would not want to see that happen and I think that it could; under this legislation, these kind of things could happen quite often.

MR. MERCIER: Mr. Chairman, the legislation includes a reference to all the circumstances of the case, which I think would include consideration of the kind of things (Interjection) yes, it says, the court shall consider all the circumstances of the parent and I suggest that the parents' conduct, as he refers to it, would be considered by the court. In fact this goes back, as I remember, to two years ago in the debate on the Family Maintenance Act, when we had a long discussion when there was a reference to court considering all the circumstances of the case and whether or not that referred to conduct.

MR. CHERNIACK: Mr. Chairman, on that point, which is 15.4 I believe, it does say all the circumstances of the parents and the person who has the obligation but, Mr. Chairman, I think all those circumstances do not include moral obligations, ethical considerations, affection, any of the emotional aspects of the relationship at all. I humbly submit and I would like to get an opinion from lawyers who are familiar with this that all the circumstances here, defined as it does, when it says including the following, deals only with financial needs.

Now I remind the Attorney-General and I don't have the Act before me but the present Family Maintenance Act does take into consideration a certain element of fault. We debated that at great length and I recall that we were in disagreement, but in the end there is an element of fault that does enter into the description of obligation which is completely missing here and I really submit that this is pretty well confined to the financial relationship and nothing to do with the moral or ethical obligation.

Now, we said you can't legislate morality but Section 15.1(1) does impose an obligation right off the bat, without any consideration at all of the relationship as between the two, and I think that 15.4, if it were to include what Mr. Adam said, should indeed say so. That the court shall be required, I think, "required" to take into account the history, the association, the relationship I mean not the blood relationship but the family dealings, as between the parties involved in coming to a consideration. Otherwise, it just seems to me to be keeping it confined to the financial aspects.

MR. MERCIER: Just briefly, Mr. Chairman, the law officers advise me they think it is consideration of all the circumstances and is not confined to those specific items that follow but, in considering the other two questions, we'll consider that item too.

MR. CHERNIACK: May I, Mr. Chairman, just ask, you see the reason I made the distinction it says, "all the circumstances of the parent and the person", and I think we're really talking here about the circumstances as between the two, not individually. I think this means the circumstance of the parent, is the parent indeed starving or is the child hard up or is the child in a position to pay. I don't think it deals really as between the two, otherwise, why did we did we bring into the marital Family Maintenance Act those subsections which I think do deal with the emotional relationship as between the couple? And as I say, I don't have the Act before me, but I seem to recall that there are considerations, which I think that some of us oppose, that were put into the Act by the Attorney-General himself I believe, I'm speaking generally as being part of what the court should consider, whether the attitude of one to the other was such as to break up the marriage, something like that. There's something there about somebody whose dealings in relation to the other were such as to be instrumental in forcing a breakup of the marriage. There's some subsection like that.

Well, I think something like that would be analogous; that it may well be that the parent threw the child out of the family house and said, "Ah, fend for yourself, henceforth," and then later on discovers that the child has means and goes after them. I don't think that that's covered. I know all the

circumstances is a very general phrase but read within the section which relates to 15.1(1) which says just without question,"every person who has a dependent parent has the obligation". Therefore, I think a court looking at that would look at the financial means. And if I am wrong in my interpretation, what's wrong with spelling out what the Attorney-General believes is right. If he believes that personal relationships considerations should be involved, why not say so, and then there wouldn't be any discussion about that.

MR. CHAIRMAN:

MRS. WESTBURY: Mr. Chairperson, thank you. I'm told that, when the Attorney-General introduced The Marital Property Act in 1978, one of the reasons that he gave for not legislating co-sharing between marriage partners during a marriage was that it was an intrusion into the private lives of the partners. And I'm suggesting that this legislation is even more of an intrusion into the private lives because the parent-child relationship is quite different from the relationship between marriage partners. The parent-child relationship and the caring between these people is really something I find difficult to accept as an Act of legislation. I think a loving child and a child who has been well cared for by the parent will look after the parent to the best of his or her ability for as long as the parent is in need of assistance. I find it very difficult to accept that this must be legislated; and especially in view of what I'm told was the Attorney-General's own position during The Marital Property Act discussions.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Chairman, that relates more to the whole Act. I wonder if we could confine ourselves to raising perhaps special legal problems that are seen by members of the committee that the department can do some research on. We can then bring some proposals back to the committee when it meets again.

MR. CHAIRMAN: Mr. Corrin.

MR. CORRIN: Going back to 15.2(b), Mr. Chairman, I'm wondering whether the department and, of course, the Attorney-General, has considered whether or not the wording that has been used may have the effect of putting a child's obligation to support a parent before the obligation of a spouse to maintain his or her mate. It seems to me that the legislation, worded as it is, it says that in the case of a person who has a spouse, but for any reason is not receiving support and maintenance or adequate support and maintenance from the spouse, that person would be deemed to be a person requiring assistance within the terms of the Act.

I'm wondering whether or not then, a person who had children who were conveniently located in the jurisdiction or at least one child who was conveniently located in the jurisdiction so that costly and very lengthy reciprocal enforcement litigation would not have to proceed, might rather choose a child as a source of maintenance and support than a spouse. You know, if you had a very intransigent spouse, a very difficult acrimonious relationship with a separated spouse, one might well make a determination to pursue the convenient child, as opposed to the spouse. I'm just wondering whether we haven't legitimated that sort of access by this wording. Perhaps we could have instruction on that.

MR. MERCIER: Mr. Chairman, I appreciate what the member is raising and there may very well be some change possible in the wording of that section.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I've had some difficulty with this section, too. I had to review it and I come to the conclusion that two parents applying at the same time, which I think should be the normal case, might somehow be in adversary position under (b). I really don't understand why we have a section that deals with only one parent who either has no spouse or who has a spouse who is not providing support, and it doesn't say, not able to support, but is not providing support. I can visualize a case which makes sense to me, and that is two parents living together, needing support, could go after a child. I'm not quite sure just how that would work. They would each have to prove that the other is not providing support. But worse, what about two separated parents. Who is going to choose as to whether the order will be enforced against the spouse or against the child? That, of course, was the point raised by the Member for Wellington, but I wonder that there isn't a provision that enables both parents jointly to start such proceedings without having each to prove that the other parent is not providing support. Because it sounds to me like they ought to have two separate lawyers.

MR. CHAIRMAN: Any other comments? Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I do have some other comments, but Mr. Mercier asked us to confine ourselves to questions of a legal nature first. So I'm waiting until we've dealt with that, then I'd like to deal with other matters.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Chairman, I think we can confine ourselves to the technical questions which the members have with respect to this bill I think the agreement was we would hear those and then hold this bill until we have an opportunity to consider them with the legal officers of the Crown.

MR. CHERNIACK: On the other matters?

MR. MERCIER: Yes.

MR. CHERNIACK: I wondered what the Minister was saying when I think he was addressing, well, one of the two persons who presented a brief when he justified this portion of the legislation based on ethnic traditions. I wonder if he could elaborate on just what he meant because I couldn't quite follow that.

MR. MERCIER: Mr. Chairman, I'm prepared to discuss that but if members could indicate whether they have any, as we said, any technical concerns in the bill . . if we're finished with that, then let's move on to the next bill and we'll come back to this bill at a later date.

MR. CHERNIACK: Oh] Mr. Chairman, just to clarify it. The Minister is now saying that he wants to deal with all the technical matters today and only the technical matters today and then leave the bill. I hope he'll be here when we come back to it.

MR. MERCIER: May not be . . .

MR. CHERNIACK: I didn't hear his response, he said, "May not something," but when he is proposing these matters and mentions . . . and I'm really anxious to hear what he has to say about the justification of the ethnic tradition. I would be very distressed if he weren't here at the time we come back to the bill. However, I can't control his comings and goings.

MR. CHAIRMAN: Okay, are there any other technical considerations by any members of the committee as to clauses that they have concerns about? Mr. Cherniack.

MR. CHERNIACK: No. Mr. Adam.

MR. CHAIRMAN: Mr. Adam.

MR. ADAM: On the same technical point that the Member for St. Johns raised about the parents, where they were separated or divorced. What happens if parents are divorced and they are both in need of support and you have a child who may be able to contribute some to their support, and they are both in need? Does the child have to support the both parents if they decide that they want to obtain an order?

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Chairman, as I indicated, with respect to amendments to The Family Maintenance Act that attempt in some way to bring The Parents Maintenance Act up to date with the existing court procedures, because that was all the intention was to do, as I said, we saw no reason for the suspicion that the government somehow is going to become involved in applications for maintenance on behalf of parents. I've said numerous times that this is a difficult decision; is one that would have to be left up to the parents.

In order to expedite consideration of this bill, and in view of the questions raised, which are good questions, Mr. Chairman, I am prepared to withdraw the amendments to The Family Maintenance Act, basically Section 2 and Section 16 and leave the existing legislation on the statute books. It's only being used in the one instance. I guess you would leave out 14 and 15, too. So the effect would be, Mr. Chairman, I propose to the committee, we delete Section 2, 14, 15 and 16 and that the department will continue to review the amendments to this proposed Act and the concerns that have been raised in committee and leave it open for possible amendment in the future. It might even be subject matter that the Law Reform Commission might consider.

MR. CHERNIACK: I just think that's a very responsible position that the Minister is taking. That means delete Section 2 on Page 1, all of Page 2, and well, Page 3 down to Section 3, and did the Minister say 14, 15 and 16, all relate to that.

MR. CHAIRMAN: Agreed? (Agreed) Mr. Corrin.

MR. CORRIN: We accept with appreciation the fact that the Minister has withdrawn all these sections respecting The Parents Maintenance Act, but having retained the repeal of that portion of the Bill that caused us to much grief, I suppose we are, at least I am, very curious as to why this is the case. Is it because of the technical deficiencies we have raised or is it because the government really feels that the substance of the Bill, the principle of the Bill is unworthy of further discussions? What was the rationale for the withdrawal?

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Chairman, as I indicated previously, the attempt only was to, on the basis of the existing legislation being used last year in a case, the only attempt was to amend it to bring it up-to-date with the existing court procedures because it was deficient in that regard.

A number of good questions have been raised about a number of technical matters under the Bill that deserve serious consideration. Time is of the essence these days, it would appear, in the Legislature, and I think rather than make . . .

MR. ADAM: We've got lots of time, Mr. Chairman if you could pass good laws.

MR. MERCIER: . . . amendments at this time, I am suggesting to the Committee that we will withdraw those sections; that points raised will be reviewed; and that it might even be a subject matter that could more appropriately be studied by the Manitoba Law Reform Commission.

MR. CORRIN: I just want the member to be aware that his concern about time, and time being of the essence as he expressed it, is not necessarily shared by all the members. That would be, I think, in the category of a personsal concern, and I want that as a matter of record on the Hansard report, because we appreciate that a Minister is much more involved in terms of governmental business than opposition members or backbenchers, but nevertheless we have a will to continue to participate in law-making, and I don't know of anybody on our side who feels that there is any reason to withdraw the discussion of the Bill simply for reason of bringing to an early end the Session.

Secondly, I wanted to indicate that if there is any commitment to the principle of this Bill, then it is not sufficient to simply repeal this and fall back on the old Parents Maintenance Act because, as we heard, the rationale for introducing this Bill was the

nadequate levels of maintenance provided in the present piece of legislation.

So my question is: Will the Minister be introducing amendments to The Parents Maintenance Act in order to bring maintenance levels that are available up to acceptable standards, and I am asking him this from the point of view of his own concern in this regard.

We feel that the legislation is regressive, but he feels it is not, so will he at least within his own level of principle and commitment, bring a bill to extend The Parents Maintenance Act maintenance provisions so that people who make applications under that will be protected. I presume there is somebody out there he is trying to protect and he feels need protection. Otherwise, I would suggest we also delete Clause 16 and do away with The Parents Maintenance Act, rationalize the whole situation until the Law Reform Commission brings in a report.

MR. CHAIRMAN: It is indicated, I believe, that he plans to refer it to the Law Reform Commission for a report, so he is obviously concerned with pursuing it further. Mrs. Westbury.

MRS. WESTBURY: Yes, Mr. Chairperson. I was very concerned that this piece of legislation should be redrafted, because I don't think it is good in the way it is, and I am very pleased that the Attorney-General has, without too much argument or persuasion, decided to withdraw it and I am happy about that and would like to go on to the rest of the Bill.

MR. CHAIRMAN: The amendment is to delete Clauses 2, 14, 15, and 16 of Bill 77. Mr. Corrin.

MR. CORRIN: It seems to me that if we delete 16 we leave the current Parents Maintenance Act on the books. If we leave No. 16 on Page 7, then effectively we repeal the present Parents Maintenance Act. I would ask the Legislative Counsel, through you, Mr. Chairman, whether that is correct?

MR. MERCIER: That is right. What I am proposing is we delete those four sections, that would leave the existing legislation on the books, as it has been for the past 50 years, and we will review these legislative proposals, the matters raised by members of the Committee suggesting that it may even be a matter that I may ask the Law Reform Commission to study.

MR. CORRIN: If we are not going to start equally, as it were, and have no legislation at all before we go to the Law Reform Commission, then why won't the Minister advise us whether he will upgrade the maintenance provisions of the current Act? I think that is his responsibility, because that was the reason for bringing this legislation before the Legislature in the first place, that was in his introductory remarks, the thing that motivated the introduction of the Bill. So it seems to me that at least if there is any commitment to the principles in this Bill the government should minimally upgrade the maintenance levels pending the report of the Law Reform Commission, otherwise the government isn't even being fair to its own self.

MR. MERCIER: Mr. Chairman, if it has survived for 50 years the way it has one more year won't be a great hardship.

MR. CHAIRMAN: We haven't got a motion, I read what the motion is to be, but would somebody make that motion.

Mrs. Westbury is making the motion that Mr. Cherniack.

MR. CHERNIACK: I think that procedurally, and maybe the proper way is to just vote down the . . . . I mean we have standing motions, don't we? Mr. Jorgenson may have another idea, but it seems to me we come to Section 2 and you call Ayes and Nays and it will be Nay. I think it is an automatic deletion. I am not trying to impose my point of view, it just seems to me the simplest way. You will deal with Section 1 pass; Section 2 not pass, and then you will get down to the other sections and they will not pass. I am just suggesting that procedurally. I don't know if it matters much.

MR. EINARSON: Mr. Chairman, I move in Bill 77 that Sections 2, 14, 15, and 16 be deleted, on Bill 77.

MR. CHAIRMAN: Committee agreed? (Agreed) The amendment passes. Mr. Jenkins.

MR. JENKINS: Now you will require a motion to renumber the sections, because there are sections that have been deleted. I would so move that the sections be renumbered.

MR. CHAIRMAN: Mr. Jenkins moves that permission be granted to renumber the Bill accordingly. Agreed? (Agreed) The motion passes.

Page 1 as amended pass; Page 3 as amended pass; Page 4 pass; Page 5 pass; Page 6 Mrs. Westbury.

MRS. WESTBURY: Mr. Chairperson, I take exception to Section 12 under Division 4. I am talking about the amendments to 19.3 and I wonder what the definition of "unreasonably" is. I am sure that there is some sort of a legal definition or measurement of the word "unreasonably". I want to suggest that this would be the same as any other debt, where a spouse owes money to another spouse it should automatically incur interest, and as I read this it does not. It is up to the court and where somebody has established to somebody's else's satisfaction that there has been an unreasonable delay. I am suggesting that any delay at all should result in the payment of interest in the amount owing to the other spouse.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Chairman, at the present time there is no provision for awarding of interest and the order would only take effect from the date the court renders the order. We are proposing in this section where the court finds that there has been an unreasonable delay, and that would be a finding of the court, that the court would have the jurisdiction to award interest and I suggest that this would be a significant improvement over what exists at the

present time. There will be a small amendment, a typographical one, it refers to Section 71 in the fifth line, that should be Section 17, and there will be an amendment to that.

MR. CHAIRMAN: Mrs. Westbury.

MRS. WESTBURY: I agree that this is an improvement, but I am also suggesting that where the court makes an order against a spouse that court should automatically include, perhaps, or the Act shall automatically include a provision, that non-payment should result in interest payments, and I think this would help in the payment of maintenance. If people knew that they were going to be assessed interest if they were delinquent in their payments, I think it might be an incentive for the working spouse to provide for the dependant spouse. While I congratulate the Minister on making the improvement, I suggest that he hasn't gone far enough. The amount surely is money belonging to usually the wife, but the spouse, not the one against whom the order is made. Can that not be changed to make it so that any delay of an amount payable to the other spouse upon a division of assets under this Act would result in interest being due on the amount or the unssatisfied portion thereof?

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: I am just looking at the existing provisions of the Act. Mr. Chairman, there is some reference in the Act at the present time to payments be made by installments, with or without interest. I appreciate what the member is saying. It may very well be that there will be circumstances where interest would simply be very inappropriate. I would suggest to the member that this provision certainly cures a defect in the existing legislation and gives the court the discretion to order interest where unreasonable delay has occurred, and that in other instances I am not aware that the actual time for the court proceedings has taken that long.

I can undertake, certainly, Mr. Chairman, to examine the principle that the Member for Fort Rouge is referring to, and determine whether or not an amendment along the lines that she has raised is one that should be brought forward in the future.

MRS. WESTBURY: Is it impossible to have it brought forward for this session? Mr. Chairperson, through you. Under Section 19.1 there is reference to, the payment be made by instalments with or without interest, may otherwise allow the spouse such time, with or without interest in which to comply. But the order having been made, surely the principle should be that money not paid under an order from the court, should bear interest to the person to whom the money is due? I think this, Mr. Chairperson, is suggesting that the spouse would have to go back to the court and get another order, it says, upon application another order to get interest on the amount, and my position is that the order having been made in the first place, surely that interest should be automatic? The same as any other debt presumably bears interest.

MR. MERCIER: I see. You're suggesting wherever an order is made and money is not paid in accordance with the order, that interest should be paid on overdue instalments?

MRS. WESTBURY: Yes, because I think the court in making the order will take into consideration whether it should be in instalments or a yearly sum, whatever. And I really think this would help a great deal in the provision of maintenance.

MR. MERCIER: Generally, Mr. Chairman, where there is a judgment for payment for example of a lump sum amount, that would carry interest.

MRS. WESTBURY: Well then, this is then a backward step?

MR. MERCIER: No, this is a progressive step because the judge can go back and say that so and so unreasonably delayed the court proceedings for two months and inasmuch as I've awarded 50 percent, say to the spouse I'm also going to award her interest on that amount for two months, which up until this amendment passing, they would not have had the power to do.

MRS. WESTBURY: All right. But this doesn't only refer to when they've delayed a court proceeding; it refers, doesn't it, to any unreasonable delay? And I'm suggesting that any delay is unreasonable when a court order has been issued. If I have a court order issued against me for payment to my spouse which, you know, he wouldn't live very well on what he was going to get from me but for payment to my spouse of a certain amount monthly or quarterly or yearly, and I am delinquent in that payment, surely that money really belongs to him in the way that any other debt would belong to him, and surely I should pay interest on that amount automatically and without my husband having to go back to the court to get another order, as this suggests?

MR. MERCIER: Well, I think, Mr. Chairman, there is discretion here that would allow a judge to award interest in those circumstances.

MRS. WESTBURY: I think that's in 19.1, Mr. Chairperson, but I think in 19.3 it has to show unreasonable delay and that is a matter of discretion on the part of the court but it also takes up the time of the court, it means that the spouse to whom the money is payable has to go back to the lawyer again and start a whole new action in order to get "unreasonable" defined and in order to get the court to insist that interest be paid on the amount. I believe that the court, having made an order, the court implies that that money becomes due and therefore it should automatically bear interest.

MR. MERCIER: I think the problem may be, Mr. Chairman, for example, may be an order to divide certain assets and pay one half, say, to the wife, it may very well be that some delay will be necessary in order to liquidate those assets and . . .

MRS. WESTBURY: But once he's got the money, he or she has the money . . .

MR. MERCIER: But if you're requiring the sale of a home or the sale of other assets, there will be a delay that will be a necessary part of paying one half to the wife, and in those cases delay is justified and neither party . . .

MRS. WESTBURY: In that he has not yet acquired the money for the sale of the house.

MR. MERCIER: And in fact there would be no benefit, let's say to the husband in the "reasonable" delay. That's why I suggest it be left in this form and we'll continue to review that, it may very well be that further amendment can be made next year.

MRS. WESTBURY: Can it not be worded, Mr. Chairperson, I'm sorry to take up so much time, but I've sat through a lot of other speeches so I don't really have to apologize. Is it not possible to say, once the money is in the hands of the spouse, in more legalistic language, that once he has the amount that comes to him or her upon the division of assets under the Act, that once that money is in his or her possession, any delay in payment to the spouse should involve interest or something like that?

MR. MERCIER: I think that goes without saying, that's covered in this legislation because I think if he were to hold 50,000 in a bank account for any period of time, other than the time required for mailing it or delivering it, that that would be construed as unreasonable delay and interest could be ordered by the court.

MRS. WESTBURY: Mr. Chairperson, what really bothers me about this is that the spouse that has no assets is put back into the position of having to go to legal aid and get a legal aid lawyer and go back into court, in order to prove unreasonable delay and that's really what's bothering me. That the onus is on that spouse to prove unreasonable delay.

MR. MERCIER: Mr. Chairman, again I say this is a vast improvement over what exists because there is no provision for any awarding of interest at all in the present circumstances. I think this will give the court some discretion, I think it's something that, you know, if you're under the obligation to pay, your facing, you know that if you unreasonably delay, it's going to cost you interest.

MRS. WESTBURY: Yes, okay, I accept that and I accept the intentions behind this change. I'm concerned for the spouse on the one hand and for the taxpayer on the other, having to have this extra court action, which seems to me to be unnecessary. But I'll have a look at that and maybe come up with something for third reading.

MR. CHAIRMAN: Okay, thank you very much. Just prior to calling the question on page 6, I wonder if the committee would agree to an editorial change on the fifth line of Section 19.3 changing the number 71 to 17. Is it agreed? (Agreed)

So then, page 6 as amended pass; page 7 as amended pass; preamble pass; title page pass; Bill be reported, as amended pass.

BILL NO. 78
AN ACT TO AMEND THE EXECUTIONS ACT, THE COUNTY COURTS ACT AND THE PROVINCIAL JUDGES ACT

MR. CHAIRMAN: Mr. Wilson.

MR. WILSON: Mr. Chairman, before we start on this bill I want to get a feeling from the Opposition if they feel there's a conflict of interest. I feel there isn't and that this bill deals with the Attorney-General's department and the sheriffsmen that work within it and deals with a Writ of Execution which is not available for the private section or the private credit industry to deal with, so therefore, I feel that words that I say are words of practical experience from the private sector and I would like to just add a few words of pearls of wisdom or predictions for the future, with regard to this bill, I'd like to make a small amendment.

I had this amendment prepared before but in light of the fact that it appears the bill is going to go through anyway, I wondered if I might verbally, since it's only a small amendment, verbally read it to members opposite.

MR. CHAIRMAN: Are you asking for permission to put the amendment forward. I don't think that the committee can decide whether or not you have a conflict of interest, so if you have an amendment intended, how be if we go (Interjection) okay, let's go page by page and when we get there, then by all means bring it forward.

Page 1 pass. Okay, the amendment is on page 2. Right? Mr. Wilson. There are some amendments that we have to circulate as well, for page 2.

MR. WILSON: Mr. Chairman, may I go ahead? This bill here, some of the observations made in the news service, that a lot of the things stated on the exemptions before, it is true that they used to have one axe, one saw and a number of other items, a mule, an oxen and four horses and they had a lot of terminology which I agree, did not apply to more modern times, but I wanted to ask the Minister if in page 1 of his news service, that he says "to update exemptions", would he not be saying to increase exemptions for debtors? Is that a fair appraisal of his news service that was put out on June 27?

MR. MERCIER: Generally, yes, Mr. Chairman.

MR. WILSON: Well, if one looks at the marketplace and we are increasing exemptions for debtors, I have to express some alarm at some of the vagueness of the wording in some sections because when you if I could start at the top well first of all I'll continue with the news service. I'm saying that you're replacing this minimum protection shield that withered away because of time, and you're replacing it with vagueness in my opinion. In other words, the former Act spelled out the items which were exempt, and while they may have been horses and mules and oxen and axes and saws, they were spelled out, and to me, are being replaced by the words "necessary and ordinary", and when it comes to the motor

vehicle farther down it talks about transportation to and from work, and this vagueness is one that I think is going to get the Minister's staff in a lot of particular decision making which could lead to a lot of court activity and many losses and judicial interpretations, which will probably differ on every case because the Act is so vague in this area.

I express a concern of raising the exemptions from 1,500 all the way up to 4,500, because on the next line, you are allowing, in addition to the 4,500, which is appraised value, which means naturally anybody that's bought a coloured television or a chesterfield set or something like that, or a fan or a pole lamp or a swag lamp or whatever, can now place a used furniture value on it, so this would be an appraised value of 4,500. Then you have all the necessary and ordinary clothing, which means that the four fur coats in the closet and everything else, they would also be exempt. Then the food and fuel necessary for a period of six months, which is something I don't quarrel with but I'm worried about the cash equivalent thereof. Because you're talking about allowing a possible another 3,600.00. So you combine that with the 7,500, the ,3600, the 4,500 and then the 3,000 for the motor vehicle, you're getting into a fairly affluent middle class type of person, who will absolutely suffer no consequence of having taken advantage of loose credit and in some cases, I won't say that the world is full of deadbeats but in some cases like people have planned obsolescence, people have a planned debt picture, that we are making Manitoba, as I said before, a debtor's haven, where people are going to become morally acceptable because we, as legislators, are passing these bills which are increasing exemptions every year for people in debt, because naturally, I guess, they vote. I say it would be better to shore up the marketplace and the retail marketplace. We have enjoyed a fantastic life in the credit field and I think what we are doing is getting to the stage where, as the Minister said the other day, the answer to my somewhat I guess it was a mild form of crystal balling for the future but said, well the credit grantors can toughen up.

I would suggest the fear that I have is that credit grantors will completely toughen up till at the stage where you will only have two or three credit cards available to the consumer. In other words, if a person doesn't have cash, a chargex or a visa card or we'll say American Express they will not be able to enjoy the life and we are then going into a situation of a rich and poor type of society where there is no middle class because there is no credit. This is brought about by the fact that in our search to coddle people and to say, spend what you want, go wild, do whatever you want, buy whatever you want, because if you get too far in debt, we'll pass new laws and increase your exemption so that you will be able to continue on your credit binge.

My concern is that the wording of this Act the way it is, and I realize that it's probably going to go through, but I would hope that further amendments would come through as the bill is tested in the marketplace. That what it appears to me and I stand to be corrected is that absolutely every debtor now will be entitled to an automobile. The day of public transit is going to be completely not available. In other words, a person living on Smith Street that works at Eaton's can simply say he needs his car for work, and that's the only explanation; just like today, welfare, the only criteria you need is need. So it would appear from the old days where a condition of employment was to have an automobile . . . like I know some people have driver licences where they are suspended from driving, but they can drive during working hours. I would much rather see this section be amended to ''only have'' and be spelled out and not be vague that a condition of employment that that particular motor vehicle for 3,000 is exempt. Not everyone that's a debtor be completely exempt.

Another concern is and in the News Service, it says exempting debtor farmers from seizure of all animals, all farm machinery, all equipment, dairy utensils required for the operation for the next 12 months. Because of the dangers I pointed out of no teeth for penalizing those that sign a sub-bailiff form, can a person then liquidate after they know that the debtor has thrown up all the roadblocks in the way of the farm implement person or the grocery store in the small country town, he's thrown up all the roadblocks in his way, but the person has been seeking his just obligation and now he has to let the farmer off for a period of 12 months. Does this mean that the farmer can then, knowing that in 12 months down the road he's going to have to turn over everything to the courts, I submit that under this particular Act, the way it reads, he could liquidate. He could liquidate his stock; he could liquidate his farm machinery. He could liquidate everything and move to another province.

That's another area that this bill should be looking at is the interaction of provincial jurisdiction right across Canada. Because while Manitoba has a reputation as attracting people as a debtor's haven, after they burnt out Manitoba, they can then go to Alberta, or then go on the other side of the mountain to British Columbia, or go all the way to Newfoundland where a process server can't get at him.

MR. CHAIRMAN: Point of order, Mr. Wilson. I wonder if we should begin to consider the particular clause that you plan to amend.

MR. WILSON: All right.

MR. CHAIRMAN: Okay.

MR. WILSON: Anyway, with those few words of warning, I would like to move an amendment. It's under Section 31. That Clause 31(a) as set out in Section 6 of Bill 78 be amended by striking out the sign and figures 4,500, be struck out and the sign and figures 2,500, be substituted therefor. I just wanted to very briefly sum up. This is not an unreasonable request because what you're doing is taking a new concept to The executions Act, and this new concept is one of increasing the exemptions for debtors. And I'm saying that inflation has come along, but has it come along to such a degree as Section 31 allows. I'm saying, unless you're going to spell out like the old Act did, the items in question, then you're leaving such a vagueness in here; that I think the 2,500 figure is reasonable and fair because

I know what you can buy at an auction sale for 2,500.00. You could furnish two homes.

I'm just saying that a used furniture appraisal of 4,500 means almost every home in River Heights and I say that without excluding the elite china and the Doulton dinnerware and stuff like that but I'm talking the basic furniture that goes into a home is basically an appraised used furniture value of 4,500.00. So I'm saying, in order to allow the creditors to get something from the increasing world of debtors out there, that it should be 2,500, because with the addition of all these other items, the family certainly is left with plenty without having some consideration for getting that type of work ethic installed in them to want to pay their just obligations.

We teach our children right from wrong; we say do not steal from the grocery store, you must pick up an item and you must pay for it. Do not walk out of the store with it. These amendments that we're making are simply saying to people and an encouragement to people, "Go out and buy what you want, because after you get in financial difficulty, the governments will simply increase the exemptions." This is the concern that I have, but I realize the times we're in, so I'm willing to concede 2,500 and I'll put my amendment for the committee to consider.

MR. CHAIRMAN: Question? Mr. Corrin.

MR. CORRIN: Mr. Chairman, first of all, I wish to indicate that I'm personally not supportive of the amendment. I simply think that it fails to take into consideration the very stark reality that presents to debtors today. Notwithstanding what Mr. Wilson has said and I'm sure having professional trade background in this area, he knows more about the value of appraised used furniture than I do notwithstanding that we've heard that, I still think that there is a large cross-section of our population that needs some relief. And if we're talking about things like debt moratorium and abatement legislation, certainly an extension of the exemptions provided to judgment debtors under The Executions Act is a step in the right direction.

But, Mr. Chairman, in his remarks the Member for Wolseley spoke about the differentiation as between the list of exempt items in the former legislation and the failure to list items that are exempt in the bill before us, and I'm bothered by that because it seems that there is a distinction in the treatment that this government is according rural judgment creditors who are in the farm business and urban working people. He's quite right. If you're a farmer, the government has decided in its wisdom to eliminate all the categories and lists of exempt property that formerly pertained. A lot of it may have well been outdate and outmoded but that, Mr. Chairman, is not reason to do away with the listing process. So now the Act will read that in the case of a judgment debtor, who is a farmer, all farm machinery, dairy utensils and farm equipment, reasonably necessary for the proper and efficient conduct of his agricultural operations will be exempt, as well as one motor vehicle.

Well, Mr. Chairman, who is to make such a determination? I think Mr. Wilson quite rightly points out that it's impossible, so the farmer is going to say that I need everything, everything here is incident to my farming operations. So the creditor is precluded from taking anything. I'm not saying that I'm opposed to farmers getting a break. What I'm saying here is that there is an inconsistency as between the treatment accorded a farmer and the treatment accorded the urban working person or, I suppose, the rural working person who isn't in the farming business.

With respect to other people, there are limits, 7,500 for tools, implements and books these are professional books so the judgment debtor can't keep more than 7,500.00. If you're a small businessman I suppose you're out of luck. If you're a small businessman in the farming business, you're in a good deal of luck. So there's a real distinction as between the same class of individual in this regard. I can appreciate that we want to encourage farmers in these hard times. Goodness knows, they have enough to contend with as a result of natural forces. But it doesn't seem fair to me to distinguish them from other people. So I can't say that I'm satisfied that this legislation accomplishes the goal. I think that both classes should be treated the same way. We can either extend the exemptions to the small urban businessman or person, or we can define the exemptions with respect to the business person involved in farming enterprises. We can't have it both ways and I think Mr. Wilson, perhaps as a result of his practical experience, has hit a very good point.

If the Attorney-General's response is that the bailiff should make a decision as to what is necessary, I would say if I represented a rural constituency where there were farmers, that I would be very dissatisfied with that legislation. I sure as heck wouldn't want the bailiff to make that sort of decision on the spot, decide what to attach and what to leave. You know, the bailiff may be way off base. As a matter of fact, I'm just thinking of the practice, most law firms when they send a bailiff, send a local Winnipeg firm out. I suppose the average Winnipeg bailiff knows about as much about farming as I do. So being realistic, I don't see how we can look after the interests of the farmer if we're going to allow this provision to stand. Frankly, I'd like to see a more open-ended sort of exemption accorded both classes. I'd like to see what we've done for farmers done for the other class, too. But I'm not sure that's the best way to go about making laws. I think in that case you're going to get some very harsh distinctions and you're going to end up having bailiffs make the law instead of legislators. So, taking sentiment and putting it aside, I think as a matter of proper form, we should probably revert to the former listing of exempt property.

MR. WILSON: I have one other small item on Section (g). I agree with the Member for Wellington. I would prefer the listing aspect, too. I think there's too many, I'll call them household toys, available on the market that should not be considered necessities and are luxuries and should not be exempt. I won't go into them and I won't take the time of the committee, but under Section (g) I would like a clarification. I would like to see this, in other words, if I was a professional debt dodger and I wanted to avoid paying somebody, I would simply mail 3.00 and become a Minister and then I could apply under

Section (g). What I'm concerned about is, could we not have this spelled out so that a person who is going to have articles and furniture necessary for the performance of religious services, could it not only apply to ordained Ministers and people that are teaching religion in a bona fide way? I remember chasing down one chap on Maryland and he had just received his certificate, and during the election a lot of people want to have credibility so they get a Reverend in front of their name by mailing this 3.00 away.

I really would like to see this section apply to the legitimate religious service community, and I say that with some sort of experience of having had Letters to the Editor and other things against me from people who have put the word Reverend in front of their name, and upon investigation it was found out that they were mail order Ministers. I would appreciate this type of thing being shored up so that on payment of 3.00, by becoming a minister I could avoid my creditors. I just throw that out.

MR. CHAIRMAN: Okay, Mr. Wilson.

Mr. Mercier, and I'll just remind the committee that we are speaking to the proposed amendment on 30(1)(n).

MR. MERCIER: Mr. Chairman, with respect to the proposed amendment, the Law Reform Commission Report pointed out that there has been no change in the 1,500 limitation since 1955. I think we are aware of the change in the cost of living since 1955.

One other point I should mention, I want to tell the Member for Wolseley that we had the same concern about the requirement of the discretion that will have to be exercised by the Sheriff's officers when we receive the Law Reform Commission Report and draft of the legislation. Unfortunately, we saw no other way but to do it this way. It will require a great deal of discretion in some cases. There is provision for contesting the seizure, hopefully that is something that will not have to be done very often, but it will require some training and some experience and some discretion to be used.

Now, on (g), 31(g), the Articles and furniture necessary to the performance of religious services. If I can refer to the Law Reform Commission Report on that subject, they said they have received no comment on that provision. This is the same as is in the existing legislation, there is no change in it. They said the provision is peculiar to Manitoba and is, perhaps, unnecessary. A creditor would be unlikely to seize any such articles and if applied to an individual the provisions could be abused by a judgment debtor claiming exemptions under this section merely to avoid seizure. On the other hand, there is no record of such abuse and the possibility remains that greater hardship would be imposed by the taking of a religious item which the debtor regards as a spiritual necessity, than by the taking of his furniture which the present law exempts as a necessity of life. In all probability the items would have little resale value and would not be seized by the officers, whether statutorily exempt or not, and they recommended no change in the Clause on that basis.

MR. CORRIN: Mr. Chairman, the Attorney-General didn't address my concern, but he certainly provided another plank in the platform of my argument. He indicated that these people, the bailiffs today, do not have this sort of training and that it will require a great deal of . . .

MR. MERCIER: Mr. Chairman, if the Member for Wellington would allow me. They do exercise discretion now, they have to, and I am saying that that will have to continue under these amendments.

MR. CORRIN: But, in the absence of any sort of training, any sort of professional background, I presume that it is not that difficult and I say this with respect to the Member for Wolseley that it is not that difficult to become a bailiff under today's standards, and I say this with respect, I truly do. It seems to me that we are exposing people to considerable risk giving them this sort of discretion, to allow the bailiff to decide what is a farmer's necessary farm property. I mean, it is rather obvious to me that the bailiff's first loyalty will be to the person who is paying the fees, and I say this again with respect, but I think that most of us operate on the same principle, our client is the one we owe loyalty to.

On that basis, how can you expect the bailiff, without any guidelines, to make a fair determination? Obviously, it is in his interest to grab as much as he can and get out, and unless there is legislation that prevents that it will be very difficult for us to pretend to be protecting the public interest. I think we are trying to do a favour. I think what the government is motivated by, in this case, is wanting to give farmers totally exempt privileges; I think that they have discriminated affirmatively with respect to farmers. The problem is in their zeal they forgot that the knife cuts both ways, it's a two-edged blade. So while trying to be generous to farmers, what they have really done is probably exposed them to depredations that are far worse than were formerly the case.

So if we limited the classes but extended the limits, but defined them in such a way that they were well understood and clear in the legislation, then the bailiff would be prevented from wholesale removal of chattels and goods and the farmer's interests would be protected. You know, I am sure this must have come up at the honourable member's caucus because there are a lot of rural members on that side and I am sure that they would have brought this to his attention. If the Member for Wolseley spoke out and made these points there it becomes quite clear that you've got to have some protection and I don't know what that is. Perhaps the Member for Springfield has something.

MR. MERCIER: Mr. Chairman, perhaps the members hasn't had the opportunity to read the Law Reform Commission Report, but this bill follows the recommendations of the Law Reform Commission Report on which I can tell him there is not great agricultural background on the report. The members who made the report, Dean Edwards, Mr. Smethurst, Mr. Werier, Mrs. Ritchie, Mr. Newman, Professor Bass, Mr. Littler from Brandon, I don't think there is one farmer in that group. So I don't know how the

member could accuse . . . there certainly could be no accusation that there was agricultural bias on the Law Reform Commission. There was an extensive consultation and we are following the recommendations of the Law Reform Commission. Circumstances do differ from case to case, from individual to individual, and that is what makes it almost impossible to define in each an every case what is reasonably necessary for a family.

MR. CHAIRMAN: I might point out that Section (f) looks no different, in terms of the broadness in which it can be interpreted; where it says the tools, implements, professional books and other necessaries. That is certainly pretty broad when you are looking at non-agricultural applications, so I think it cuts both ways.

MR. CORRIN: I agree, except they put a limit on it. The bailiff can't go hog wild, there is a 7,500 limit. It is a question of policy. I think we are going to have a lot of disgruntled and very angry farmers. And with respect to that, Mr. Chairman, I would note that the Law Reform Commission is always referred to almost as if it were gospel. I can assure you that, although I wasn't here, that it was never intended to play that role. The people are there because they have some experience in general affairs and most of them, of course, are lawyers. But, you know, they don't set policy and the question of whether or not farmers should be accorded certain privileges and rights as a matter of policy has nothing to do with law, good law.

And by the way, Mr. Chairman, if there was that sort of will to improve the performance of the Law Reform Commission the Honourable Attorney-General wouldn't have misled us three months ago and told us that he found a full-time Chairman. I understand from the Law School that the Chairman's salary has been picked up one-third by the Law School, on the condition that he work one-third his hours at the Law School as a lecturer. So there is nobody in charge of the Law Reform Commission on a full-time basis today.

MR. CHAIRMAN: We are not discussing the make-up of the Law Reform Commission or the salary of the Chairman. Could we take the vote on the amendment please, the proposed amendment of the Member for Wolseley, to change the figures "4,500" in Clause 30(1)(a) to "2,500". All those in favour? Opposed? I declare the amendment defeated.

We have another amendment. The Member for Springfield. Would somebody move the amendment that is on the table?

MR. ROBERT ANDERSON: Mr. Chairman, I move that Bill 78 be amended by striking out the words "the sum" where they appear in the third line of Clause (a) and again in the second line of Clause (f) of the proposed new subsection 30(1) of The Executions Act, as set out in Section 6 of the bill; and substituting therefor in each case the words "the aggregate sum".

MR. CHAIRMAN: Is the amendment agreeable? (Agreed) Page 2 as amended pass; Page 3 pass; Page 4 the Honourable Member for Wolseley.

MR. WILSON: Under Section 42 I wanted to draw, for again, futuristic knowledge or whatever. It says here that "no proceedings to sell the mobile home under the writ shall be commenced until the expiration of one year from the date of seizure". If you have no teeth in the sub-bailiff form, then I suggest what you are doing is allowing again, and I stand to be corrected, the interpretation is are you allowing the debtor to stay another year for free, free rent, in the mobile home, or what is the intention of this? That, after the sheriff has got it locked up on a compound, you are going to, at 3.00 a day storage, bankrupt the creditors and the debtor combined to the benefit of the storage company for 3.00a day, or is it 5.00 a day for a mobile home, in a compound? What I am saying is if there were some teeth in the sub-bailiff form, the natural procedure would be for the debtor to sign a sub-bailiff form, agree to try to get himself out of debt. But, if we are talking about that there is no sub-bailiff procedure under this, and there are no teeth in the sub-bailiff form, the sheriff's man is going to take the mobile home, put it in a compound at 5.00 a day storage, and literally delete the asset until it is worthless. Maybe that is an exaggeration, but 365 days in a year times 5.00 is quite a hit.

I would just like to finish up, too, that I am also rather concerned that at some point in time that legislators who have a university of life degree are given equal importance as the Law Reform Commission.

MR. CHAIRMAN: Mr. Brown.

MR] ARNOLD BROWN (Rhineland): Mr. Chairman, I believe that the Member for Wolseley has a mobile home and a motor home mixed up in this particular area. A mobile home nowadays is 14 feet wide and anywhere from 60 to 76 feet long and it is a permanent home in which people reside. I believe that he is thinking of the motor home which you can drive possibly into the compound that he is thinking of and locking up. I am certain you are not going to do that with a mobile home.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Chairman, the intention here is to treat a mobile home in the same manner as an ordinary house, and this is the same type of exemption given to a house and it is being expanded to include a mobile home.

MR. CHAIRMAN: Mr. Corrin.

MR. CORRIN: I wanted to deal, Mr. Chairman, on Page 3 with something that . . . (Interjection) I know, but I think it is a typographical error. I just wanted to raise it because I think that all members would agree that if it is they want it amended in order to rectify the provision. In 30(2) in the second last line it says "judgment debtor" and I conferred with the Member for St. Johns on this and he thinks it is wrong too. Should that not read "judgment creditor"? It is the clause that talks about the bailiff being allowed to make seizures in certain cases of property that would otherwise be exempt. And then it says, "but any amount realized on the sale, over

and above the exempt amount in costs, shall be paid to the judgment debtor out of the proceeds of sale." Wouldn't the amount above the exempt amount in costs be paid to the judgment creditor?

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, if I may. I remember now, it's quite a while since I saw that. I think the intent of this section is that the exempt portion, the value of the exempt portion, should be paid to the judgment debtor and the excess shall be paid to the judgment creditor, and that's not the way I read this section. It's the wording of it that I thought was not clear and seemed to distort it. Now, I think the intent is clear, but I don't think it's correct, and I don't think it's enough to just say "shall be paid to the judgment creditor", because I think you have to still show what shall be paid to the judgment debtor. I think it needs a substantial correction in form.

MR. MERCIER: Mr. Chairman, it's almost 5:30 and we're not going to obviously complete this and the next bill before 5:30. I understand the House is going to meet and we're going to come back into committee, so we'll have legislative counsel look at that aspect and report back on it.

HON. WARNER H. JORGENSON (Morris): Mr. Chairman, I wonder if I may advise the honourable members of the intention to call the House tonight at 8 o'clock and go through the routine proceedings. Then, for the purpose of permitting the Member for Brandon West to complete his remarks on Bill 83, if members are willing I would like to call Bill 83 to enable him to complete his remarks. He has to attend the funeral of his brother tomorrow, so he will not be here tomorrow and I would like him to have the opportunity of completing his remarks tonight.

MR. CHAIRMAN: Committee rise.