



Legislative Assembly of Manitoba

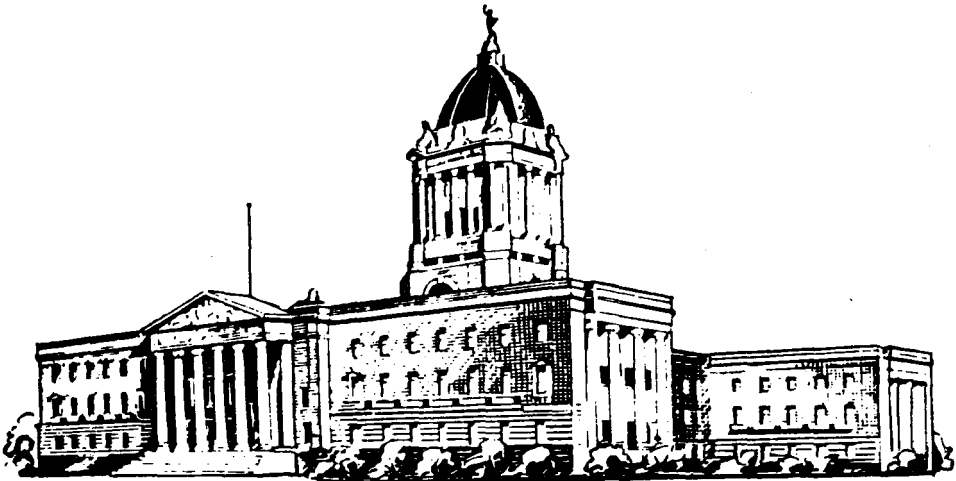
HEARINGS OF THE STANDING COMMITTEE

ON

LAW AMMENDMENTS

Chairman

Mr. Wally McKenzie
Constituency of Roblin



Friday, December 9, 1977, 8:00 p.m.

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Time: 8:00 p.m.

MR. CHAIRMAN: Mr. J. Wally McKenzie (Roblin). Gentlemen, the meeting will come to order. Ms. Bernice Sisler.

MS. BERNICE SISLER: Mr. Chairman and gentlemen, I am appearing on behalf of the Manitoba Action Committee on the Status of Women, a non-partisan organization set up originally under the Conservative government of the day to make recommendations to the Royal Commission on the Status of Women. Since that time, MACSW has worked to implement the recommendations of the Royal Commission on the Status of Women. That is why we are here today, why we have submitted briefs on the Family Law at each opportunity afforded the public, and why we support the coalition on Family Law.

Our position with regard to the Family Maintenance Act and the Marital Property Act is that the legislation should be implemented as proclaimed, and that amendments should be made through the normal amending procedure, as is done for other laws. We believe that the new family law goes a long way toward rectifying the injustices women have suffered because their contributions have not had the recognition they deserve. We believe that a law based on equality will enhance marriage, that the best marriages are those in which partners may have different roles, but roles which are recognized to have equal value. We believe that the struggle to improve the status of women is not a battle of the sexes, not a problem for women only. We believe that it is a further step towards a full democratization of our society.

We note that Bill No. 5 suspends the Family Maintenance Act and defers the Marital Property Act. We also note that no time is specified for their re-enactment or for the introduction of other legislation in their stead. The laws came about through a democratic process, one in which the people of Manitoba indicated a need for change. Our present laws are based on common law of feudal England, when women were the property of their father, and they then became property of husbands. In 1929, the Privy Council declared that women were persons. I think that in that time, nearly 50 years later, it is now time for the laws to recognize this change, that women are no longer property, they are persons.

In the democratic process that took place with regard to these laws, opportunity was provided for all to be involved, and have input along with sufficient time to do so. We responded to the working paper of the Manitoba Law Reform Commission, to the report of the Manitoba Law Reform Commission, to the committee set up to hear the responses to the Manitoba Law Reform Commission; we attended the sessions where the committee studied the report of the Manitoba Law Reform Commission, and we made presentations when the legislation was presented to the Law Amendments Committee, and here we are again.

In a democracy, the people indicate the need for laws, or for amendment to laws. Legislators, as yourself, enact the laws and the judiciary interprets the laws. It appears to us that one interest group is undermining this democratic process. A group of lawyers, most of whom were not present during this long democratic process I have just outlined, some of whom appeared at the final hearing. The majority of the latter group indicated that the law should be implemented despite the difficulties they presented when they were challenged in this regard. When we have asked for specific reasons for delay in implementing the laws, we have found two things: First, that the reasons given are not as insurmountable as they are made out to be. For example, in the area of tax difficulties. The problem raised with respect to Income Tax and the sharing of commercial assets, is not something that's insurmountable. If the commercial assets are shared with husband and wife, this does not constitute a sale of property, it's only a transfer. It's not a disposition for gain, so surely capital gains aren't applicable here.

Then we say that there's the problem with the federal government, that the laws of the federal government don't jibe with the provincial laws. Gentlemen, who's going to start the ball in motion? Are we going to wait for the federal government to do this, or are we going to initiate, make the step that brings in the laws, and make the federal government respond to change the tax laws and bring equity? It would be political suicide, wouldn't it, for the federal government not to respond to this, to make a change in the Income Tax laws if this province passed equal sharing legislation.

Then we have the problem of pensions. This was raised as a problem too. I have a communication from the Attorney-General which I found in the mail when I went home, and this is another problem that's listed, the problem with the pension. I'm not a pension expert, but I understand that a way of doing this is to have the pensions evaluated, split, and registered, just as the Canada Pension Plan allows, and if this is allowable under the Canada Pension Plan, surely this can be allowable under private pension plans. There shouldn't be the great deal of difficulty that's brought up in this case.

Another point that the letter from the Attorney-General points out is that the legislation appears to discourage attempts at reconciliation of spouses who are living separate and apart on or prior to May 15th. Well, quite frankly, I don't think the legislation is going to either effect or encourage a separation. I don't think that's relevant to this at all. I think the reconciliation goes on because two people want it to go on, regardless of what the law says. And also, a spouse may obtain an Order of Separation under the Family Maintenance Act without any reasons or grounds, and then require the other spouse to join in an accounting and equalization of the commercial assets under the Marital Property

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Act. I don't think these two things are related at all. I think they're separate things and I can't see that one necessarily follows logically from the other, and that there is an inter-relationship between the two. I have question marks opposite those, because I can't figure out what the point of that is.

Now, so much for the problems raised as being insurmountable. I think that I won't begin to attempt to list any more. I think Ms. Steinbart indicated to you practically every single problem that has been raised and gave a very logical response to the problems.

The other thing we find that happens when we say why are laws to be delayed — we find that the people who are protesting are not fully informed about the law, or about the report of the Manitoba Law Reform Commission, and they find this quite embarrassing if you challenge them on the details. Last weekend I was in a confrontative situation with a lawyer, who said to me, "There is no judicial discretion in the Marital Property Act." I had just checked this, and said to him, "Have you read the act?" Well, he flannelled on that one, and I said, "I'd like you to go home and get Section 37(1) and (2)." And you know, even when you say this to people who are lawyers, they simply don't believe that anybody outside the legal profession knows anything about an Act. I'm not a lawyer, and I don't pretend to know the ins and outs of it, but I know that Section 37(1) and (2) make room for judicial discretion under the Marital Property Act. I can't think that there's any other interpretation of that.

We frankly, because of this, wonder about the sort of opposition that we're hearing. It's our experience often, that people who are down on a subject are usually not up on it. And this would seem to be the case for many who are vocal in opposition to this law. We frankly feel very little confidence in the possibility of the presentation of a law that is better technically than the proclaimed laws. Conflicting statements about what the laws say are made daily by people who are reputed to be well versed in the law. It's like economists, you hear one lawyer say one thing, and another lawyer say another thing. It's very difficult to know whom to believe. We do not have confidence that the difficulties will be changed by delaying the implementation of the law. We believe that the law ought not to be delayed because there is a genuine urgency for its implementation. Injustices inherent in existing laws have gone on long enough. The time has come and the time is now for laws to be enacted which recognize equality between marriage partners. The time has come and the time is now for laws which recognize the economic value of work done in the home. The time has come and the time is now for laws to be enacted which recognize that fault is irrelevant to the assessment of maintenance payments which should be based on need and the ability to pay.

Manitoba was the first province to give women the vote. Let Manitoba be the first province to bring in equitable family law. Thank you.

MR. CHAIRMAN: Thank you, Madam. Mr. Cherniack.

MR. CHERNIACK: I have a few questions I would like to direct to you. Firstly, I didn't know the origin of your organization. You say it was formed by the Conservative government?

MS. SISLER: It was formed in 1967 as a committee to bring in recommendations to the Royal Commission on the Status of Women, and the Conservative government at the time asked Thelma Forbes, who was Minister of Municipal Affairs, I believe, at that time, to set up the committee and this was done. We recently had our 10-year anniversary and I was in touch with Mrs. Forbes who got me the addresses and so on for the women who were originally on the committee. Subsequent to the publication of the report, the committee became an action committee to bring in the recommendations of the Royal Commission on the Status of Women.

MR. CHERNIACK: I hope you feel that at the end of ten years, you could report success to your members.

MS. SISLER: Yes, it would be nice to do that, particularly in this area which is so close to us. A lot has been improved, it's true, but since we had a long way to go . . .

MR. CHERNIACK: When is your anniversary? When is the tenth anniversary?

MS. SISLER: Oh, it has passed. I'm sorry, I didn't catch the gist of it. No, we had it in October.

MR. CHERNIACK: If you were going to have it in the next couple of months, you might have to report differently. How are you structured?

MS. SISLER: Well, it's a membership organization. We pay membership.

MR. CHERNIACK: Oh, I see.

MS. SISLER: We're not funded in any way.

MR. CHERNIACK: Ms. Sisler, you've given an indication that you're familiar with the briefs and the discussions that took place at the law reform and at the intersessional committee of the legislature and in the committee last year during the session. That is three separate groups of meetings, and

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want to address you in the light of the fact that I'm not aware of one member of the Conservative party present today who participated, or was present as an active person, in any of those last three meetings. I want to ask you, really, for the benefit of those who have not had the opportunity that some of us have had of living through this experience with you, to —(Interjection)— Dying through the? . . . No, I found it invigorating. . . to ask you to reflect again on your statement that you feel that there was only one interest group that showed that they were not in support of this. When you said that, I wondered if it was right. Could you reflect, who do you recall that was really giving an opposition to the . . .

MS. SISLER: Well, excuse me. I don't recall during the process a group being in opposition as a "group." What my point was, I think, was that subsequent, at the very end rather, at the last hearings, it just seemed that all of a sudden lawyers seemed to appear from everywhere and make their presentations that they weren't in on the process and everything seemed to be very negative in this regard and with due respect this is not all lawyers, a group of a group of lawyers. And of course, we're very concerned about this meeting of 500 who seem to be regarded as the fountain of wisdom or something, that that's where all the solutions to our problems are going to lie. I might say that I myself, as well as being involved in organizations, I have made my own presentations at every stage of the game, have ended up with a submission to the review committee myself and this takes considerable time and effort and in so doing, you become more and more familiar with the problems and it's a long hard struggle. But I feel that this group of lawyers who have become "The 500," as they're called, when you get down to this, they certainly are not 500 people who are in agreement on this. It seems that this was a session at which they had kind of a workshop on the legalities and it's just astounding some of the things that one hears came out of that group. I'm afraid that perhaps some of the people who were managing the workshop either weren't familiar with what the law said or else they had some ulterior motive. Of course, my feeling about the motive is that basically what I fear, as an individual — I won't say this for the action committee — what I fear is that they really basically can't face up to the recognition of marriage as an equal partnership or to the recognition of sharing my money.

MR. CHERNIACK: I'm under the impression that there was no resolution adopted by that session that you refer to. Do you think that anybody has spoken in opposition to these laws as a representative of the an organized group of any kind? Or as individuals?

MS. SISLER: Well, I think as we find out more about it, it seems to be as you asked a question, I believe it was you this afternoon, about Mr. Mercury's statement.

MR. CHERNIACK: No, it was Mr. Pawley.

MS. SISLER: Someone else did — whom did he represent? My reading of the paper led me to believe that he represented the Bar Association. You'll excuse me if I get the different associations confused, I'm not familiar with them.

MR. CHERNIACK: Yes. We're going to try and find out whom he did represent, but I don't want to take you too long in that direction. The impression that the Attorney-General and the Premier have tried to give is that there is no basic quarrel with the principles of the law but that what they want to do is to make it more workable in that they feel that there are . . . well, that it's a dog's breakfast, if I may quote the Premier, and it's just a question of straightening out the draftsmanship. Assuming that that is the fact, are you not prepared to wait six months or eight months for them to do that correction of draftsmanship, and carry on?

MS. SISLER: Yes, I think I am prepared. Heaven knows we've waited long enough now, what's another six months if that's what it's to be. I think our concern is about the review committee. I think this is our basic concern in this regard. We would feel reassured if we knew when the legislation was to be brought in and what the technical difficulties are. We will be watching this of course and if in the course of the study, we get a better law, fine. This is fine. We are apprehensive because of the composition of that review committee.

MR. CHERNIACK: The Attorney-General, when he introduced this bill for second reading, said hopefully it would be brought in to the next session. But when he closed debate, he said, "It will be brought in the next session," so that you have some kind of recorded assurance that it'll be done. Do you feel apprehensive that the principles may be varied from what they are in the present law?

MS. SISLER: I can only say that we'll have to wait and see. I can't get rid of the feeling that I had, personally again, when I read Mr. Houston's submission, and when I realized that he is the person appointed to the review committee. I certainly hope the principles won't be diluted. As we have gone around and talked to cabinet ministers, we've had their reassurance that they will not be diluted and I take them at their word. I certainly accept that, so we're very hopeful that they won't be diluted.

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MR. CHERNIACK: Do you have reason to believe that they will not adversely challenge the concept of no-fault in maintenance.

MS. SISLER: I myself believe that no-fault probably will be challenged, yes. And that disturbs me greatly. I think that would be a sad thing if fault were to be reintroduced.

MR. CHERNIACK: What about the equal distribution of commercial assets?

MS. SISLER: Well, I'm a firm believer that the increased value during the course of the marriage should be shared equally.

MR. CHERNIACK: Do you feel confident that that principle will not be adversely challenged.

MS. SISLER: I know of instances where people will uphold this. I think we can only wait and see. I think it depends on the consensus of Cabinet. I can't say that, I don't think any of /y. Hopefully can. I think that's the reality of both the no fault and the sharing of the commercial assets acquired during the marriage will be in the new legislation.

MR. CHERNIACK: Well would it be helpful to you and to your concerned, if you had the assurances before this present act is passed, to the extent that there will be a continuation of these principles and the others that are in the act.

MS. SISLER: We have said, as we have been speaking to the different cabinet ministers and backbenchers that we would like the assurance of the Premier in this.

MR. CHERNIACK: Thank you, Ms. Sisler.

MR. JORGENSEN: Mr. Pawley.

MR. PAWLEY: Ms. Sisler, I wonder if in your meetings with cabinet ministers and MLA's whether you received any indication on what I believe you would agree to be an important principle, and that is in relationship to unilateral opting out, if you received any indication that that would be . . .

MS. SISLER: Kept in. We have as I recall one

MR. PAWLEY: Not kept in but kept out.

MS. SISLER: Oh, unilateral opting out. Oh, I'm sorry, I'm thinking retroactivity. No I don't believe we've gone into a lengthy discussion on that. No. And that is no I'm not saying that they haven't gone along with this, it's simply that, as I recall, that was not one of the things that we discussed at length.

MR. PAWLEY: Did you receive any indication in connection with the equal division of commercial assets?

MS. SISLER: Yes, I think that was support for equal division of commercial assets from several of the ministers that we met.

MR. PAWLEY: I'd like to just ask, as I asked some earlier groups — did you participate in the demonstration on November the 28th?

MS. SISLER: Yes, I did, and I do not belong to the NDP party. I'm sorry, Mr. Pawley, but it's a fact.

MR. PAWLEY: That was the information I wanted in view of the fact that there's been some counter-suggestion.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mr. Chairman, there's just one or two brief questions that come to mind that I'd like to raise with Mrs. Sisler, but I gathered from your remarks — you said that the concern that you have and that the members of the organization have really centres on the Review Committee that was established and the personnel that occupy it. If I could be so blunt, would your concerns be allayed, or appeased if, in fact, the composition of that committee was changed, and Mr. Houston was removed, someone else was put on, that you would feel it would be more open, or acceptable, or interested, or objective about what should happen?

MS. SISLER: Yes, I think that there would be a great deal of good feeling if that were to happen. I, at

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one point, suggested that I think that a very good thing would be to have someone who is not locked into the family law as it is now on the committee, someone with a different perspective — it could be a lawyer, it could be as someone suggested this afternoon, a lay person in this regard — to bring a different perspective to it.

My concern is that we have three people here who are lawyers practicing in the area of family law, and they're locked into the system that is, so their perspectives — I think that they were clearly outlined this afternoon how they perceive things to be, and it's very difficult to get new ideas across, — this is a very different kind of concept than has previously existed in law, this recognition of the work done in the home of equal partnership, and so on. It's a completely different game from the protection — I like to refer to it as the protection racket — but the protection that women have been under in the past. You know, it's a completely different concept. So we would feel better, yes, if someone of a different focus were put on this committee, and I think, when Mr. Houston comments on equality, on judicial discretion, on no change needed in the law — well, you could go on and on and document this — I have it documented there but won't go over it for you — I think that we have cause to be alarmed when this is the man — he says he's no draftsman. What is he there for, if he is not there to draft the law? What is he there for? I hope he doesn't have input into the meat of the law.

MR. AXWORTHY: So, just then taking it the next step further, would you or your organization prepare to withdraw your opposition to Bill 5, or at least take a wait-and-see attitude if, in fact, that review committee had different people on it, people whom you had a greater degree of trust in, or felt that they would bring a different focus, as you say, or a different perspective to it, so that a lot of the particular kinds of anxieties and oppositions that we're now hearing would be allayed if, in fact, that one simple step was taken. Is that a correct judgment on my part?

MS. SISLER: I can't presume to speak for an organization, and I'm sure you can appreciate that in my position here. It's a new idea that, you know, the group would have to discuss. It would be presumptuous of me to speak for them, but my own feeling would be yes, very definitely, that would make a great deal of difference if that were to happen.

MR. AXWORTHY: Well, perhaps we've made some progress in other areas. Perhaps we can look at that.

I'd like to ask another question, Mrs. Sisler. After the bill was passed — the Family Property and Maintenance Bills last spring — did the organization go back and take a look at it once it was passed and review it to determine if and where you might have seen weaknesses in it yourselves, and came up with any conclusions on it?

MS. SISLER: Well, we were certainly examining it and made presentation at the time of the Law Amendments Committee . . .

MR. AXWORTHY: Yes, I remember that.

MS. SISLER: And, for example, we feel that one of the areas that's been neglected is the area of maintenance payments. That's the large one that comes to mind. You know, we certainly had other suggestions about it, yes. And we have been studying it again now.

MR. AXWORTHY: Has there been any attempt to take a look at the bill and apply it to specific cases or situations so to determine how workable or effective it might have been under those circumstances?

MS. SISLER: No, we haven't really had time to do that. I think with the summer session and then the election and then the quick sort of way this has happened, and having to present a brief to the Review Committee and having to prepare submissions to go to Cabinet ministers and to backbenchers, and to do this has really occupied, as you can appreciate, a great deal of our time. Unfortunately, you know, we do not have secretaries at work, nor do we have wives at home.

MR. AXWORTHY: Well, I share with you the first part of the problem.

MS. SISLER: Well, you're one up on me, because I don't have a wife at home.

MR. AXWORTHY: Right. That's enough. Thank you, Mr. Chairman.

MR. CHAIRMAN: Any more questions for the witness? I thank you, Ms. Sisler. Thank you for your presentation. Mrs. Goodwin. Mr. Green.

MR. GREEN: I would like to just ask a few questions because you indicated that you feel that there could be much changes in the maintenance payments, that there was some suggestion that the public guarantee any judgment against a husband for maintenance payments. Is that the kind of suggestion that you're contemplating.

MS. SISLER: I believe that was a suggestion by the Action Coalition at one point, that a way of doing this was to perhaps guarantee the amount that's paid through welfare. Rather than call it welfare, it would be granted as just a right, and it would dispense with that stigma.

MR. GREEN: I'm happy to hear that. I think that that is very sensible. I had gathered that what the suggestion was, is that the government guarantee the maintenance payment no matter what the figure was, but what you're suggesting is that a maintenance payment, that the minimum, that is the amount that would be paid if the woman was on social assistance, be guaranteed, but it not be called welfare, it be called the state's obligation vis a vis the maintenance payment.

MS. SISLER: I don't want you, Mr. Green, as a lawyer to hold me to chapter and verse in this regard. I am saying that my recollection of this is this, and that we felt that that was one way perhaps of doing it. I think there're are other ways of implementing collection of maintenance across the country. Someone suggested at one point that, for example, your Social Insurance number could be coded or coloured to indicate that part of your wage was co-opted, or whatever, for payment. That's another way that has been suggested.

I believe that at one time I was in correspondence with you years ago about a woman who was in a dreadful state because of non payment, and in the course of this, that came out as a possible solution for the collection of her maintenance payments. I think there're many ways to effect inter-provincial agreements and this sort of thing.

MR. GREEN: Well, I certainly welcome any ideas along that line as to offering better means of collecting or facilities between one province and another, and whether you wish to be held legally to it or not, I am happy to hear that your suggestion is not that the state guarantee whatever the payment is that is ordered by the court, but that the state guarantee the kind of money that would be available to other people who were not being maintained, and that what your real thrust here is that there be more effective procedures for enforcing the maintenance payments.

MS. SISLER: I think that's the point, yes.

MR. GREEN: Thank you.

MS. SISLER: Thank you.

MR. CHAIRMAN: Mrs. Goodwin.

MR. CHERNIACK: Mr. Chairman, I wonder if this would be a good occasion for my motion to be dealt with, as I agreed with Mr. Jorgenson that we should lay it over until this evening. If this is a good occasion, shall I introduce it? Well, Mr. Chairman, we know that there is a committee that has been appointed, consisting of three lawyers who've been instructed, apparently, to prepare suggested amendments to the existing legislation in order to make it . . .

MR. CHAIRMAN: Order. I must apologize to the committee. I promised Mrs. Goodwin — she has an appointment . . .

MR. CHERNIACK: Oh sure.

MR. CHAIRMAN: Can we hear her brief and then you can raise the motion.

MR. CHERNIACK: Of course, of course.

MRS. GOODWIN: There's no problem. My appointment has been changed.

MR. CHAIRMAN: Oh, it has. Okay, we'll hear your brief, and then we'll have Mr. Cherniack's motion. I promised Mrs. Goodwin.

MR. CHERNIACK: That's quite alright.

MRS. GOODWIN: Thank you, Mr. Chairman and members. On behalf of the Provincial Council of Women of Manitoba, I would like to express concern over the delay of the family law legislation, Bi No. 5

Firstly, we find the manner in which this subject is being dealt with of prime concern. Those who are addressing themselves to the subject are approaching the family law legislation as being the culprit, which is creating all kinds of dreadful problems. I suggest that this is a truly negative approach. Laws are formulated to reflect the values of a society. It has been clearly demonstrated in the past that most people look upon their marital relationship as a partnership. This legislative reflected that concept of partnership, and, in addition, it serves to give meaning to the religious vow

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many of us have exchanged, and/or reinforces the contract which we have agreed to. And as a point of interest, to refresh your memories as to what the vows are — from the Solemnization of the Matrimony Ceremony in the Prayer Book, The Common Prayer Book, which is customarily used for the Christian services, the male makes the vow that "With this ring, I thee wed; with my body, I thee honour; and all my worldly goods with thee I share." May I suggest that there is no mention in that vow about whether or not commercial assets will be included.

The family law legislation is a good law, and the problem is not the family law. I suggest that we deal with the real culprit, the obstacle, which appears to be the federal Income Tax Act. While the purpose of taxation is to raise revenue, at the same time the manner of taxing individuals relates to the way our legislators perceive the taxpayers to be, and presently the taxpayers are perceived to be as one, which interferes with the prospect of partnership in marriage when dealing with fiscal matters. As a point of interest, in 1967 the Carter Report on Taxation recommended the taxation of the family as a unit — obviously a very progressive idea at that time.

The cure lies in this government working towards the elimination of all discriminatory aspects in the Income Tax Act by pressuring the federal government to make the necessary amendments. This action will be timely because many other provinces are presently formulating family law legislation. In the interim, as a short term solution, the provincial government should allow this legislation to proceed in amended form, dealing with all assets as deferred community, thus removing the immediate tax problem. When the federal Income Tax Act is amended, and hopefully that will be in time for the next spring session of the legislature, the concept of instant sharing could once again be reintroduced into this legislation. For those people who have a fear that the implementation of this legislation will serve as a personal loss, provincial counsel suggest that it will be society's gain. This legislation will serve to give meaning to the institution of marriage.

On reflecting over the events of the past two months, I would suggest that prior to the election the members of the provincial government, or the provincial counsel were of the understanding that a Conservative government would allow this legislation to stand, and would not hold it up in its implementation. Provincial Council felt that the committee hearings held during the past year afforded the citizens of this province adequate opportunity to express their concerns about the legislation. This participation by the public exemplified democracy at its very best — democracy, that form of government in which the supreme power rests with the people, ruling themselves either directly or indirectly through representatives, Abraham Lincoln's appropriate phrase "of the people, for the people, by the people."

I present this brief on behalf of the Provincial Council of Women of Manitoba, with representation of approximately 40,000 women within this province. Thank you.

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

MR. MERCIER: Mrs. Goodwin, do I take it, from your remarks, forgetting the tax implications, that you don't feel the immediate vesting of family assets is of any benefit?

MRS. GOODWIN: The immediate vesting of family assets is any benefit . . .

MR. MERCIER: . . . is of any real benefit to spouses?

MRS. GOODWIN: What I have suggested is that it is desirable to have the instant sharing concept, but at this immediate time it's not possible because of Income Tax implications, so therefore to eradicate the immediate problem and allow the legislation to proceed tomorrow or next week, if you so desire, you can make the necessary amendments and apply the deferred community concept to all assets and thus create a tax situation which is not dissimilar from the tax implications that exist at the present moment.

MR. MERCIER: Has your organization had someone with any expertise in taxation render this opinion to you?

MRS. GOODWIN: My organization hasn't; I have had a personal interest. Free legal advice, I might add, over a period of years. — (Interjection) — I speak for myself. I've worked it through and I wouldn't pretend to be an expert, but I certainly understand that the deferred community would be the answer at the moment.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. Chairman, I don't want to place Mrs. Goodwin in an awkward position, but let me just indicate that I have considerable confidence in that same tax expert that you've referred to, and I assume that the tax views that you expressed here, you had discussed with that same authority and he endorsed the suggestion that you had made to us.

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MRS. GOODWIN: This is not a new suggestion. It's something that I've been familiar with, the prospect of the problem, and if you could refer to our previous briefs from Provincial Council, you will note that we always referred to the concept of deferred community as being the policy for our council.

MR. PAWLEY: Relating back to Mr. Mercier's statement, however, when tax situation would be corrected, you would prefer to see family assets immediately vested as they are in the present legislation.

MRS. GOODWIN: I have concerns about the means in which you can legislate and enforce instant sharing, because in order to make it apply, if you have a spouse who's not willing to comply, you're going to have to take it through the normal legal processes, and I think that this would certainly place a marriage in jeopardy. But I do suggest that any legislation, whether it be taxation, and I can relate to the Succession and Gift Duty Acts themselves, they discriminate against the possibilities of instant sharing, if a couple so desire. So there should always be the encouragement by any legislation that within marriage we encourage and approve of the concept of instant sharing if that is so desired.

MR. PAWLEY: Mrs. Goodwin, I was rather interested in your remark that during the election campaign, the Provincial Council of Women had received an impression from the Conservative Party that this legislation would be permitted to continue through. I wonder if you would expand as to why you had felt, as an organization, assured by the Conservative Party?

MRS. GOODWIN: Well, you know, with all due respect to the party in question, out of curiosity for our own members — maybe curiosity isn't quite the right word to use — we felt that it was important that our members, because we are a non-partisan organization, should be familiar with the positions of the three parties. So on contacting the Liberal, NDP and the Conservative Party headquarters for their party policy concerning matters of concern to women, I did address the different parties and of course they all had policy. However, when I contacted the Conservative headquarters, they did not have a policy and so therefore I had to work through my own member who in turn went directly to the premier — then the candidate — Mr. Sterling Lyon, and then he passed the information on to me that the legislation would not be held back.

MR. PAWLEY: Who was your member?

MRS. GOODWIN: Oh, do I really have to tell you? — because he has really been wonderful to me and I hate to bring him into this?

MR. PAWLEY: Okay. Did your organization or members of your organization participate in the demonstration November . . . ?

MRS. GOODWIN: Yes, we certainly did and notices went to all of our members. Our organization has never participated to my knowledge in a demonstration, and believe me we were certainly behind the intent of it.

MR. PAWLEY: You have seen references in, I believe it was the Winnipeg Free Press . . .

MRS. GOODWIN: Yes.

MR. PAWLEY: . . . that groups were being prompted by the NDP and Mr. Lyon saying that the demonstrators were NDPers or fronts of the NDP. Is your organization connected in a partisan way to any party?

MRS. GOODWIN: No, not at all. We're not at all. I would suggest that it was possibly a little bit of sensationalism. I don't know who is at fault there but certainly it was incorrect.

MR. PAWLEY: Thank you.

MR. CHAIRMAN: Mr. Corrin.

MR. CORRIN: Mrs. Goodwin, in making reference to your suggestions as to how we might circumvent the difficulties that have been discussed relative to The Income Tax Act, you suggested one method that your personal income tax adviser put forward. I was wondering — this is something that occurred to me while you were talking — in view of the fact that The Marital Property Act is to be proclaimed or was to be — well, it is still to be proclaimed effective January 1st, 1978 — in view of the fact that the effective determining date for the 1978 tax year will be about March 31, 1979, I believe that's the deadline date for filing of returns, I'm wondering if some of your fears could be appeased on the basis that there is that grace period?

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MRS. GOODWIN: I'm not going to confess to being too knowledgeable about having gone into that area, but my concern is that there should be no conniving or different kinds of angles that we play in order to get tax advantage just because we want to either share or don't want to share. Eliminate that kind of nonsense; it shouldn't exist. It is legislating a type of corruption.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Pass.

MR. CHAIRMAN: Mr. Axworthy.

MR. AXWORTHY: Mrs. Goodwin, I would just like to come back to some of the points that you raised. The Council of Women is, as you said, a non-partisan organization. Has it ever in the past advised its members to take a stance for or against different political parties depending upon the policy issues that they adopted?

MRS. GOODWIN: No, we never do. However, we do lay the issues before our members. What we try to do is take the important issues that we have time for, go into them in reasonable depth, give a broad objective approach, report on this and allow our members to participate in formulating what the policy in fact will be. We do this through representatives; they are called Federates.

MR. AXWORTHY: If I recall correctly, in the committee hearings last spring, the Provincial Council of Women though did endorse very substantially the legislation that was being proposed, did submit recommendations on it and was in favour of the legislation. Is that a correct . . . ?

MRS. GOODWIN: Absolutely. We felt that there were areas where it didn't go far enough. And that's dealing with the payment of maintenance orders, the establishment of some form of collection agency, and the opting-out provisions have not gone far enough. We feel that both spouses should have independent legal advice. Most lawyers would agree with this, that when a couple goes to a lawyer for advice, in most instances you go to the husband's lawyer and it is just logical that that lawyer is going to advise his clients in favour of the male spouse.

MR. AXWORTHY: I presume then, that if you had determined during the last election campaign that one of the political parties or two or three of them were in fact against the legislation or had intentions to withdraw it or to change it that you would have so advised your members that in fact one of the parties was going to take a step that would be contrary to the interests of the Provincial Council of Women. Is that correct?

MRS. GOODWIN: We advised our members that none of the parties were going to repeal the legislation.

MR. AXWORTHY: So you did advise your membership that all the parties were in favour of the legislation based upon statements that were issued by party headquarters or by the leaders of their respective parties?

MRS. GOODWIN: Yes, we did.

MR. AXWORTHY: What specifically did Mr. Lyon tell you that he and the Conservatives intended to do?

MRS. GOODWIN: As I say, I didn't speak directly with Mr. Lyon. It was through my own member that the message was passed on. It dealt with: that if the Conservatives were elected, the family law legislation would stand and would not be held up in its implementation; that the government would monitor the success of the legislation, after which amendments would be made where necessary; and that the legislation would not be nullified; and that both of these gentlemen would advise against the repeal of the bill.

MR. AXWORTHY: So that based upon that very clear set of instructions, the Provincial Council of Women advised their members that we would not be contemplating Bill 5 as we are now. Is that correct?

MRS. GOODWIN: May I just clarify something; it was a verbal over-the-phone conversation and after this controversy arose over the direction of the legislation, I contacted my member and wrote this letter setting out what I had understood our conversation to have meant. He in turn contacted me and made it clear that he was speaking to me as my member and was relaying the information to me.

MR. AXWORTHY: Is that member presently a member of the cabinet that decided on this bill?

MRS. GOODWIN: Yes.

MR. AXWORTHY: So he is a member of the cabinet that did decide on this bill. Just one final question then — and it may be just a judgment call — could I take it that the Council of Women would feel somewhat that what they were told was really labouring under false pretenses because they were really not being told exactly the way things were in the election campaign?

MRS. GOODWIN: Did we feel misled, do you mean?

MR. AXWORTHY: Do you feel misled now?

MRS. GOODWIN: Misled? I think we feel somewhat deceived.

MR. AXWORTHY: That's good enough, that's good enough. Thank you, Mrs. Goodwin.

MR. CHAIRMAN: Mr. Enns.

M ENNS: Mrs. Goodwin, on that last point raised by the Honourable Member for FortRouge, in the sense that perhaps the greatest criticism — and perhaps with some justification — that has been levelled against the administration for not clearly spelling out precisely our position on the bill, how can you be so sure that you have been deceived or misled?

MRS. GOODWIN: Right. Mr. Enns, I think our problem, certainly my own personal problem, is one of trying to determine the good faith of the government. I don't know exactly where you stand. I know that if — and I refer to the profession of lawyers who are undertaking this review, with all due respect to that group — if they are dealing, and I wish we knew whether they were dealing, with dotting the i's and crossing the t's, I would rest at night. Because I can't think of any group of people who are less capable of telling society what kinds of laws they should live by than a group that are not outside in society dealing with the injustice that people have had to live with.

MR. ENNS: Mrs. Goodwin, just one further question, and that is the point that honourable members were attempting to make just a few moments ago. I think the record speaks for itself in the conduct of the members of the present government, including your members, where constant reservations were being expressed and indeed expressed in terms of actual voting, not necessarily all but certainly in the large majority. It certainly wasn't a fact that was kept from the electorate during the election campaign that we were not happy with the present bill as it stood with its i's dotted and t's crossed. I would ask you to reconsider the answer that you gave to the Honourable Member for Fort Rouge about the matter of deception that you suggested has been perpetuated on the Council of Women by the present administration.

MRS. GOODWIN: The comment of deception, I think, I hope I suggested that that was my own personal comment. I'm going to ask you to clarify exactly what you'd wanted me to say, I lost my train of thought.

MR. ENNS: Mr. Chairman, the difference is this. Having some background and experience as a member of the opposition I fully appreciate that it is the opposition that is particularly adept at making people say what they want them to say. I didn't want you to say anything Mrs. Goodwin. I'm simply asking you to explain what you did say.

MRS. GOODWIN: Well that's politics. You're playing games with us, sir.

MR. ENNS: No I'm playing games with him, certainly not with you. I'm playing games with the Member for Fort Rouge.

MRS. GOODWIN: Okay, that's fine.

MR. CHAIRMAN: Order, order. Mr. Jenkins.

MR. JENKINS: Thank you, Mr. Chairman, I have just one or two questions to Mrs. Goodwin. I just want it for clarification because it came on the point that you mentioned briefly, that you felt that the optional opting-out that we have now, both going to one lawyer.

MRS. GOODWIN: Yes.

MR. JENKINS: We'd left that kind of fuzzy in my estimation, that is one weakness, I think, that we have in the bill. Do you feel that we should have, as we originally tried in committee, to have it that each person go to a lawyer of their own choice and we should spell it out in legislation?

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Mrs. GOODWIN: Well absolutely and I know that there are arguments that this is in fact putting business in the hands of lawyers but lawyers have protected the rights of men for ages and I am suggesting to you that if Legal Aid is going to be inundated by clients it's because women cannot afford the right of legal counsel and therefore the opting-out provision creates a discrepancy that is going to work to the disadvantage and injustice to the women.

MR. JENKINS: Thank you, Mrs. Goodwin, and just one more question and a very brief one. You stated that you believe that the law should be enacted and I can say that I agree with you. Do you feel that other than the question of the income tax, which is changeable, all man-made laws are changeable even the Income Tax Act as much as some people seem to think it's not, that the best way to find out how this legislation is going to work is to actually see it in practice and see that it will operate ' or won't operate.

MRS. GOODWIN: Absolutely. I'm suggesting to you that the reasons given for the delay are excuses — they are not reasons — that in fact this legislation can proceed with very little difficulty.

MR. JENKINS: Thank you, Mrs. Goodwin.

MR. CHAIRMAN: Are there any more questions? Mr. Axworthy.

MR. AXWORTHY: I just wondered if Mrs. Goodwin would be prepared to table with the committee a copy of the letter? If she would like to remove the name of the member or have it blocked out, they'd certainly concede to that, but I think it would be useful to have that letter as part of the record of this committee, if that would be agreeable.

MRS. GOODWIN: I would certainly give you a copy on the understanding that the name be blocked out.

MR. CHAIRMAN: No, I don't think we can accept documents that aren't signed.

MRS. GOODWIN: Oh, well . . .

A MEMBER: It's all or nothing.

MRS. GOODWIN: This is the way you play politics, I realize, but I'm afraid that women certainly like to honour their, sort of stand to their certain principles and I'm suggesting that I don't want to implicate my member.

A MEMBER: It's only the press that can do that, safeguard their source of information.

MRS. GOODWIN: I would certainly let you see it.

MR. AXWORTHY: Fine, thank you.

MR. CHAIRMAN: Are there any more questions? Thank you, Mrs. Goodwin.

MRS. GOODWIN: Thank you.

MR. CHAIRMAN: I call Janet Paxton . . . oh I'm sorry, Mr. Cherniack. We have a motion, pardon me. I don't have . . . have you got a copy of the . . .

MR. CHERNIACK: No, Mr. Chairman, I think that it's a simple one and that is that we request that the committee consisting of Mrs. Bowman, Messrs. Houston and Anderson, be asked by the committee to come before us at the earliest opportunity, tomorrow or Monday. May I suggest that there is a need, I believe, to allay the expressed fears we have already heard today in relation to the function of this group. I think it would be helpful for this committee to know the progress which has been made to attempt to ascertain the extent to which it would be possible to make changes now rather than wait for an extensive period of time. I say that on the basis that this committee has had the task for some weeks I believe if not months, a month or so, and that therefore it would be worthwhile for the committee to know the extent to which they've proceeded and the progress they've made and therefore I make that proposal so that we would have the opportunity of a direct account of what is transpiring and what progress they've made.

MR. CHAIRMAN: Members of the committee you've heard the resolution. Mr. Pawley.

MR. PAWLEY: Mr. Chairman, I can't help but reflect back to the hearings in December and January

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when we were fortunate as committee members to have the attendance of Mr. Muldoon and Mrs. Bowman and I recall that we spent, I think, the better part of a day with them and committee members had an opportunity to question both Mrs. Bowman and Mr. Muldoon. I think then we were better equipped to proceed with consideration of legislation. Looking at the membership of this committee there are very few members on this committee that were present during the earlier hearings of the legislative committee dealing with family law. So that I think that Mr. Cherniack's suggestion would be very useful to all members and as Mr. Cherniack indicated, much of the concern relates to the composition of the committee, just what that committee is actually doing and what it's done to this present point in time. I think it would be very very useful insofar as dealing with concern that not only the opposition has but obviously so many other groups have that we would have the advantage of spending some time with the members of the Review Board and in obtaining from them an interim report.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: Mr. Chairman, I suggest to you, Sir, and the members of the committee that there is quite a difference between the procedures that the Member for Selkirk outlined and the position we're in now. If Mr. Muldoon and Mrs. Bowman, at that time, were members of the Law Reform Commission who had submitted their report and certainly I see nothing wrong, in fact everything worthwhile with the committee meeting with members of the commission who had completed a report. In this particular situation we have three counsel retained by the Attorney-General's Department and I might point out again that that was a recommendation of the department originally that outside counsel be retained rather than to use in-house staff to review the legal implications of the legislation. And we have these counsel retained by the department. The time for filing submissions by the public was extended to December 16, which is a week from today. They will not be in any position to even make an interim report until after that time has passed because I'm sure, Sir, that members of the committee want the public to have a full opportunity to make whatever further submissions they have. In the light of the comments that have gone on in the House and in the comments that I have made in introducing the bill and closing debate on second reading, I fully expect that their report will be completed sometime in mid-January to the end of January and in view of the role that these people are playing as legal advisers, not as people like the Law Reform Commission in formulating policy to recommend to the government, I, Sir, would have to be opposed to the motion by the Member for St. Johns.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I never did understand the purpose of these public advertisements inviting public submissions and now I'm beginning to understand something that not only surprises me but shocks me because I gather now from Mr. Mercier that this group is expected to formulate policy —(Interjection)— well I wrote down the words, "formulating policy to present to the government."

MR. MERCIER: Their role is not to, not to, sir, formulate the policy.

MR. CHERNIACK: Oh, so I misunderstood Mr. Mercier.

MR. MERCIER: That's happened before . . .

MR. CHERNIACK: I understand him to say that they will be —(Interjection)— All right. So now we find that the counsel which has been hired by the Attorney-General's Department will now sit and receive briefs from the public which doesn't mean briefs on legislative draftsmanship but rather . . . oh, it may, Mr. Spivak says that maybe it will. I thought that these lawyers are trained family lawyers who are competent and are hired to be able to do the drafting job based on their extensive experience. Now I gather that not only will they be receiving briefs on legislative improvements from other lawyers but they'll be receiving briefs from the public which makes it appear as if we're entering into an entirely new phase of hearings, and I believe the submissions aren't even hearings, I'm under the impression they are written submissions, and that until that happens the committee has not started the work which was assigned to them. Now if I am wrong in my assumption that they have not started the work then I would like to be corrected. If, on the other hand, they have indeed started then wouldn't it be helpful to us to know the kind of direction in which they're heading to reassure us that they are not going to be formulating policy but that indeed all they will be doing is dealing with draftsmanship. That would be helpful before I now know whether I want to vote for or against my own motion.

MR. CHAIRMAN: Mr. Mercier.

MR. MERCIER: The changes which take place in this legislation eventually will be decided by the government not by any legal counsel retained by the government.

MR. CHERNIACK: Decided by the legislature.

MR. MERCIER: The legislature.

MR. CHAIRMAN: Mr. Enns.

MR. ENNS: Mr. Chairman, whether or not who advises the government on possible changes in the bill or what the bill will or will not include, what form or shape the bill will be presented to this committee and to the Chamber for eventual passing is a matter not of concern of this committee and I suggest the motion is out of order and this entire discussion is out of order. The bill before us is simply one of holding back for the moment action on the bill. We're not discussing the body of the bill.

MR. CHERNIACK: On a point of order, Mr. Chairman, if I may.

POINT OF ORDER

MR. CHAIRMAN: On a point of order Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, this committee is being asked to deal with legislation before it which repeals a law and brings in a new law. That therefore means that we have right to discuss the law that is being brought in by this simply-worded bill and to reveal its inadequacy and the fact that, what was it called . . . a hog's banquet, is what is being brought in, and since along with it is an assurance by the government that there are three trained technical experts preparing the next go-around — which according to the act may never be, but may be — that it would be most germane for consideration by this committee and especially the array of all the Conservatives in this room, none of whom were members of the committees that have dealt with this in the past, to have some idea of what is the prospect that we are letting ourselves into by cancelling a legislation and bringing back some old law. Seem to me it's very much in order.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: I just want to make one comment. At the last session when the committee was dealing with the Act, the government retained a lawyer through the Attorney-General's office, I believe, to examine the legal implications in terms of income tax implications, tax implications. His retention was while the committee was sitting and in turn, Mr. Chairman, his retention I believe was on June 10 — we voted this on June 17. Now, Mr. Chairman, I doubt very much whether the then government, who are now in opposition would have even tolerated a committee even requesting that the lawyer who had been retained by the Attorney-General's office come forward to give a preliminary report to the committee of what his findings were. Now it's true that — (Interjection) — he appeared on June 2, he was retained on June 10, we voted on June 17 and he filed his report on June 24. Mr. Chairman, my point being that he was retained by the then government through the Attorney-General's office and I am speculating but I'm quite sure that the then government would not have allowed the committee to have brought him forward for interview by that committee on what his findings had been at that point having been retained as legal counsel. Mr. Chairman, all I'm trying to say is that in a few - months the positions have changed a bit and I think there really is a past precedent to the way in which the committee has operated. Lawyers are retained at different times, legal counsels are retained to deal with particular Acts and I think that the recognition here has certainly been a public declaration that they've been retained, certainly everyone knows that they've been retained and when their findings have been brought forward to the government and the government proposes changes as a result of their findings and the perusal by the government there will be an ample opportunity for the committee to deal with the items at that time.

I think, Mr. Chairman, that the precedent that I referred to is very real. I do not think that the government thought there was any obligation on their part to bring forward any information to the committee, in fact I'm not even sure that they even informed the committee that it took place. Certainly they didn't inform the committee that there was likely to be a report very early on issues that, in fact, had been raised by the very person who appeared before the committee and had been raised by members of the committee throughout the whole hearings of the committee prior to the appearance of the individual and even after. And so, I think there is ample precedent for a rejection of this proposal and an acceptance that the government's declared intention is known and they will follow through with their intention. The present bill will suspend the Marital Property Act and by next session we will be dealing with it in an amended form.

MR. CHAIRMAN: Mr. Enns.

MR. ENNS: Well, pardon me, Mr. Chairman, I don't choose to quarrel with the point of order raised by the Honourable Member for St. St. John, but simply to point out to him that I accept the direction

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that the Attorney-General has given to the committee, that when the amendments that the new administration feels are in place to place before this committee and indeed before the House, that will be done. That is not the issue before us at this particular time. I can appreciate you raising whatever points of order you wish but we are not prepared and we are not sitting here as a committee to deal with the body of the bill.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. Chairman, I've listened with interest to what Mr. Spivak had said. Mr. Sherman acknowledged in the final day of the discussion in the House in June that there had been the fullest and the most open involvement of all members in the committee and I can recall, Mr. Chairman, though Mr. Spivak may not have been present, that any lawyers, any assistance requested was made available to that committee. I recall that Mr. Dale Gibson sat in through all the proceedings. Mr. Carr sat through the proceedings at the end and assisted the committee fully and openly in arriving at the final legislation. And let me say to Mr. Spivak, if it had been asked, because we had some earlier discussion in connection with tax implications if it had been asked I would have seen no reason why we would not have invited Mr. Goodwin to present at that time any tax implications. His report followed on June 24. I don't think we had any idea as a government just when we would receive the reports but certainly there would have been an openness. In fact, Mr. Chairman, I would suggest that even now that in view of the continued references that are being made to tax implications that maybe this government should call forth the lawyer that was hired to deal with tax questions in order to advise the committee further beyond the members of the review board since this seems to be a problem that has been repeatedly referred to. The precedent is there. There was a full and open involvement of all advisers and assistants in the past and I don't see why there should not be the availability of the members of this review board.

MR. CHAIRMAN: Mr. Parasiuk.

MR. PARASIUK: Thank you, Mr. Chairman. The Member for Lakeside said that we are looking at a very simple Act. We aren't. We are being forced to accept two very old outmoded laws which are poorly drafted, difficult to work with and inequitable. And the time limit for those laws right now if this Bill 5 is passed is forever despite statements to the contrary. That's what the statutes will say and therefore I think it is very important for this committee, in reviewing this legislation, to know exactly what we are getting into when we are accepting the two old laws with respect to maintenance and with respect to any type of marital property. I think it's important that we get the best type of advice possible. And we have, in fact, been fortunate to receive very good briefs at this particular session and most of them are commenting that we have a law right now, or two laws on the books which are in fact operable, which are equitable and which they are willing to live with despite some possible technical difficulties in one area. And in the one area that was pointed out, a suggested modification was put forward which probably would be sufficient if, in fact, the government had an open mind on this whole issue. I'm wondering whether in fact the government would be prepared to consider the amendments suggested by the last person putting forward a brief, if in fact they're as open minded on this whole issue of family law as they indicated.

Now with respect to whether in fact we should bring in the three people on the review team, the Member for River Heights gave us a whole set of general statements regarding precedents but he gave us no specific precedents. And the interesting thing is that would he have thought it proper to ask for the lawyer to have been brought in on June 17, had he thought of it at that time? Now he didn't think of it, but had he known, Mr. Chairman, because I wasn't a member of the government at that time and I wasn't a member of the legislature, all I know is that I'm a member of the committee right now. —(Interjection)— I am a member of the committee right now, I know that three people have been retained and I think it's a very normal thing to ask that they be brought forward. We've had all these people come for free. They've come because they are concerned. The other three are getting paid and I think they should be brought forward. And it certainly is within precedent to have them brought forward.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: I would like to move an amendment to Mr. Cherniack's motion that Mr. Goodwin also be asked to appear before the committee to provide . . .

MR. CHAIRMAN: Order. If we're going to have motions I wish the members would give me some guidance and put them in writing. It's very difficult for me. I have one paraphrased from Mr. Cherniack; the Clerk has paraphrased that and if you'd be kind enough to put some of your thought on . . .

MR. CHERNIACK: On a matter of order, Mr. Chairman, I don't mind including Mr. Pawley's suggestion. All you have to do is add the name of Goodwin to the other three and I don't object to that.

MR. SPIK: Mr. Chairman, I just want to point out that the example that I was trying to cite was the committee hearings on last occasion on which the government did not tell anyone, as far as I know, that he had been retained. —(Interjection)— Well it's not a question of whether we asked. Now isn't that ridiculous. The whole issue at that time was a variety of different matters that were brought up, one of which was tax. Mr. Goodwin appeared here as a witness. Having appeared here as a witness and making his presentation he was then retained by the government while we were sitting. —(Interjection) very sensible, we were not told that he was retained and the whole question of . . .

MR. PAWLEY: Mr. Chairman, on a point of order. Mr. Goodwin, I think the honourable member is referring to Mr. Carr that . . .

MR. SPIVAK: Mr. Goodwin appeared here on June 2 and he was retained on Jke 10 and we were not told that he had been retained. He was retained to examine tax matters. It's all been well to speculate on this; there's nothing wrong with that but I simply suggest, Mr. Chairman, I think there is a question of propriety, I said that before and I think the committee should have been told that, they were not. But I also think, Mr. Chairman, that the then government would never allowed Mr. Goodwin to have come forward, having been retained, to give us the benefit of whatever he had found at that time when they were trying to put through the bill at that stage.

A MEMBER: Then let him come forward now then.

MR. CHAIRMAN Mr. Jenkins.

MR. JENKINS: Mr. Chairman, speaking to the motion that's before the committee, I believe that the gentlemen should come before this committee, the gentleman and the lady that are on this review committee because it's never been stated quite clearly . . .

MR. CHAIRMAN: Order, one moment. Are we now speaking on your amendment, Mr. Pawley's amendment or . . .

MR. CHERNIACK: It's been included.

MR. CHAIRMAN: It's in one motion.

MR. JENKINS: I'm sorry, then it will be the three gentlemen and one lady.

MR. CHAIRMAN: Order please. Mr. Jenkins.

MR. JENKINS: Thank you, Mr. Chairman. I'd better start all over again. We have never had a clear explanation of what the terms of reference of this committee are. We have had, from the Attorney-General and the government, the proposition that these people are to review the legislation. Now we hear that there are written submissions to be made to this committee. Now this really puts me in a very funny position because I don't really know what the position of this committee is. Is it to review the legislation that we are now repealing or doing away with or is it to hear new representations, written submissions and make its amendments to the law based on those submissions submitted to the hearings? Just what are the terms of reference of this committee? I don't think that the Attorney-General has been very explicit on that point. I mean if these people are just being retained for the purpose of examining the law as it is now to find out what flaws there are in it and make recommendations to the government which in turn will bring them back to the legislature, then what is the purpose of having hearings? Are you going to have hearings and then make new recommendations for changes to the law based on those recommendations? I think we should have that somewhere further along the line and I think that the public out there have a right to know also and therefore I think these gentlemen should come before this committee.

MR. CHAIRMAN: Mr. Cherniack.

MR. CYRNIACK: I'm willing to defer to Mr. Mercier if he wants to respond to Mr. Jenkins.

MR. MECIER: Let me make a couple of comments. One I think that should be made with respect to the word "deceived" that was used and this subject matter brings it up because when that conversation allegedly occurred no member running for the Conservative Party in the election at that time was aware of the tax implications and aware of the report that had been made to the provincial government so that I would assume that any comments that had been made by any member would have been made in ignorance of that report.

Sir, the function of the counsel, our legal advisor, is to review the legislation. If anyone feels that they want to make comments on that legislation then we're inviting them to make those comments.

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Surely that is better than not inviting them to make any comments. It at least gives them the opportunity to participate. They are advisers who have not reached any position at all. The time for submissions again has not yet arrived, will not arrive until December 16. To logically extend this argument would be to suggest if they did come, if the members of the opposition did not get any answers that they thought were satisfactory to them then they suggest that another four people who may have advised the government at some particular point in time, that they be invited. And if they didn't get any satisfactory answers from them then they'd invite another four. Sir, I suggest we have to make this decision. The government has made its decision to introduce this bill on our own and it was after that that these people were appointed to review the legislation and I think it's improper at this point in time especially to have them before the committee. They're simply not in a position to offer any advice to the committee.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, Mr. Mercier referred to the charge of deception in saying that the member who made the commitment or the statement was not aware of the problem of tax implications. If that is . . . pardon?

MR. MERCIER: I'm suggesting that that may be the case.

MR. CHERNIACK: Oh, if that is correct and Mr. Mercier doesn't know that, obviously now he's not the member referred to. If he thinks it could be the question of ignorance of tax implications may I suggest to him that we can very quickly wrap this up by taking Mrs. Goodwin's suggestion and deferring the sharing of vesting of assets equally until such legislation is passed. I think it was an excellent suggestion and although I would personally deplore it because I think that the principle is so important, if that will settle the matter we can't . . . I heard Mr. Wilson make a comment about lawyers at \$100 a hour and I think we can save a awful lot of money right off the bat by agreeing today to make the change suggested by Mrs. Goodwin. I believe she gets good legal advice on tax matters, and that will then settle the question and give integrity and honour to whoever it was that made the statement that these are not acts that would be passed by a Conservative government. I am proposing that, and believe me I'm proposing it seriously on the basis that that is the real objection. Having said that, Mr. Chairman, then I want to point out to Mr. Spivak who was not a member of the previous committees, and unfortunately I don't see anybody of the Conservative Party here who was. So I have to remind you of what . . . oh, Mr. Brown was and I hope he'll speak up and confirm what I'm about to say. But I will quote Mr. Sherman as saying that, "these committee meetings have been a tremendous parliamentary experience for him where people gathered together studying a problem of great concern in an atmosphere of an attempt to work together to accomplish something for the good without partisanship." I believe he said it, I believe that was the case and I believe that Mr. Spivak should know that the government was bending over backwards not out of a sense of fairness but out of a sense of desire to accomplish something to bring in all the expertise it could get. And when Mr. Carr came here and said, "I can help you," we immediately said please come. And when Mr. Goodwin came to the committee and said, "I have certain problems of a tax nature," I think it's to the credit of the then attorney-general that he immediately hired him, not immediately but subsequently hired Mr. Goodwin to do a job. And to suggest for a moment that the government then would not have been ready to open up all the books and all the advice and everything in order to have the committee accomplish a better bill, is speaking of ignorance of what went on and the atmosphere, or is a method to try and separate the people who had good faith in their efforts. So he now talks about a precedent. You realize, Mr. Chairman, the precedent to him is the non-action of not having been asked to produce Mr. Goodwin and therefore not having produced him. —(Interjection)— Well he may not have known but to call that a precedent, to me, is so absurd that I wonder that he continues to maintain it.

MR. SPIVAK: On a point of order. I never suggested that it was a precedent. I said there are precedents where other attorneys or lawyers have been in fact hired and as far as I know this committee or a law amendments committee has never requested their appearance. I think there are other examples. I did not suggest that this is a precedent. I just simply make the point, Mr. Chairman that no matter how the honourable members may protest, it is my opinion that if they were government and they were on this side they would certainly not approve the motion that Mr. Cherniack has produced and I would have suggested that if Mr. Goodwin's appointment had been known to the committee and we had suggested at that time that he appear, they would not have allowed him to appear.

MR. CHERNIACK: You see, Mr. Chairman, how Mr. Spivak operates, that he sets up a bunch of possibilities and draws his conclusions and calls it a set of precedents. So I think that my statement that was absurd, stands. I want to challenge Mr. Mercier to accept Mrs. Goodwin's advice on the tax implications. It would be a retreat on the part of the former government . . .

MR. CHAIRMAN: Order, order please, order, sir. We're straying away far from the question that I

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before us. Committee members, listen. The resolution that's on my desk here: That the Standing Committee on Law Amendments requests that Mr. Goodwin and the Review Committee consisting of Mrs. Bowman, Messrs. Anderson and Houston be asked to come before the Law Amendments Committee at the earliest possible date. That's the motion that's before them. — (Interjection)— No, I still have Mr. Pawley, Mr. Jenkins and Mr. Corrin on my list.

MR. PAWLEY: Mr. Chairman, I will deal very briefly with this because I do think some response is required to Mr. Spivak's suggestions that we would not have made Mr. Goodwin available if asked. I recall that Mr. Carr had appeared and had been somewhat critical of the legislation that we had presented to the committee.

MR. CHAI We are straying from the motion. **PAN:** Please stay within the confines of the motion before us.

MR. PAWLEY: Well, Mr. Chairman, I wish you had pointed that out to Mr. Spivak, because I'm dealing with the comments of Mr. Spivak for your information.

MR. CHAIRMAN: Well, I apologize that I've let the debate get a little wide-ranging, but I would like to confine it back to the resolution that's before the committee if at all possible.

MR. PAWLEY: Well, it's too bad it strayed then earlier. Mr. Chairman, the attendance of Mr. Goodman at this point, I think, would be very useful. A suggestion has been made, which I feel is a worthy suggestion, as to how the tax implication problem can be resolved. I see no reason why the government would not be agreeable to calling Mr. Goodwin to the committee to ascertain whether or not it is feasible. If it is feasible, and if that is the major reason for deferring or suspending the legislation and that problem is resolved, then Mr. Chairman, I think that a great achievement could be accomplished. So let's deal with the tax implications head on and see if we have a real problem or whether we have only an imaginary problem.

MR. CHAIRMAN: Mr. Jenkins.

MR. JENKINS: Thank you, Mr. Chairman. In getting my reply from the Honourable Attorney-General I'm more confused than ever now, Sir, because now I am given to understand — and I wish he would clarify this — that he has set up a committee to review the legislation that we are repealing, to make certain recommendations. He has invited members of the public to make written submissions to this committee. Now what is the purpose of the public making representations to a committee who is reviewing legislation unless they know what the terms of reference of that committee are? And I don't think that the Attorney-General has been frank enough with the committee and with the public. I mean surely we can elicit some information out of the Attorney-General. I mean he's setting up a committee ostensibly to review the legislation, to improve it, to polish it and refine it. Now, in the meantime, he's asking for representations from the public. On what? That's what I want to know. How does the public know what the committee is going to recommend to the government? And the government's intentions have not been clear in that matter whatsoever.

MR. CHAIRMAN: Mr. Corrin.

MR. CORRIN: Mr. Chairman, I know that I'm speaking without the benefit of hindsight. There are many people here who have participated in these proceedings for some time, as a matter of fact, some I would suppose, at this point, think perhaps too long. However, I think that some people are exhibiting little foresight. They're not putting their minds to the problem that is before us this evening.

I don't want to assume that the problem is simple, or that it is not complex, but it seems to me that what we must essentially deal with is the question of function. We've been told that a review committee has been appointed by the Department of the Attorney-General. Actually I'm not sure — using the word "appointment" is perhaps incorrect — retained by the Department of the Attorney-General, I think those were the words used by my honourable friend, the Attorney-General — retained. And, Mr. Chairman, that connotes to me a very different relationship. The solicitor-client relationship, you know, is very different from that of a committee of lawyers — people who just happen to be lawyers — who have been appointed to do a review. Now one connotes objective research. One connotes a group trying to attain an objective overview of a particular problem, a very horny problem, one that certainly precipitated a good deal of debate in this House and all through his province for that matter.

Now, on the other hand, I hear — and perhaps the Honourable Attorney-General can correct me — but it seems to me that he is suggesting that he has retained private legal counsel. You know, the people in debate have drawn an analogy to Mr. Goodwin's retention. There is no analogy. Mr. Pawley has indicated that he retained Mr. Goodwin through the auspices of the department. He was retained as a solicitor, he wasn't retained to do a review. And therefore there was a privilege. The relationship between Mr. Goodwin and the government was very, very different. And there's a privilege

circumscribing that relationship — the most venerable privilege known perhaps, excepting the parliamentary privilege, but the most venerable professional privilege to my knowledge. Now, it seems ludicrous to me, as a new member of this committee, first of all, that I'm not allowed to see — if this is a review committee, based on an objective premise, why can't I, as a new member hearing all these reservations, people have been coming before us, making representations in the media about the possible bias of one of the members — there's no use pussyfooting around there's a good deal of talk and speculation about the bias — evidenced apparently in remarks on the record of this committee, of one of the members. Now, it seems to me that it's ludicrous. I can make written submissions to Mr. Houston and the other members of the committee, but I can't go before them and express my reservations. Now I, as a member of the legislature and a member of this committee, would much prefer being given the opportunity to assess for myself, to determine for myself whether or not Mr. Houston evinces a bias in this regard. I think that's my entitlement as a representative of some 16,000 Manitobans. Now, his feelings in this matter — if he's been retained as a private counsel I want to say this — and if my honourable friend, the Attorney-General is willing to concede that he has been retained as a private counsel to your department, Sir, then I say that his feelings become irrelevant. His feelings in this matter are irrelevant because he is your counsel. But if he has been retained to do an objective review of this matter, then that is all that is relevant, and I call upon you to bring him, summon him here before this committee, if not this evening, tomorrow. And let's determine this matter once and for all.

MR. CHAIRMAN: Gentlemen, this committee is to hear witnesses on this bill, and I dare say with legal counsel sitting around this table that we'll never solve this problem, the debate will go on forever, and the committee is called to hear witnesses. We've been listening to this debate now for almost 45 minutes, and I don't think we're being fair to the people that come here to make presentations. Are you ready for me to put the question?

QUESTION put. A COUNTED VOTE was taken, the result being as follows: Yeas 10; Nays 13.

MOTION lost.

MR. CHAIRMAN: I call Janet Paxton. Order please.

JANET PAXTON: Good evening, gentlemen. I see many of your old familiar faces here from last year and a lot of new faces. So here we go again. This is my presentation. I am a member of the Provincial Council of Women, also the Women Status of Committee at the Health Sciences Centre and the Action Coalition on Family Law, but I'm not representing any of those parties tonight. I'm speaking only as an individual. This is my submission I've prepared.

"Cast your bread upon the waters and it shall return to you after many days." That is a well-known saying which is most appropriate for the turn of events taking place right now. I suggest that there are many implications why this statement should be seriously considered. Everything that is happening at the moment will be recorded in Manitoba's history books 100 years to 1,000 years from now, and indeed perhaps in all the history books of North America. I believe it was to be a more momentous happening than granting the women the right to vote — these new laws. Men at that time also were completely disconcerted and in a flurry at the aspect of women just standing up and asking, not just standing up and asking, but demanding that they be given this precious right. No doubt many of the comments which were made at that time are now being made in 1977. The wording may be a little more modern, but the reactions are the same where men gather to discuss important matters of the day. For instance, they say, "Look at the unseemly manner in which these female creatures are behaving," or "This is but a small group of aggressive women behaving in a way which does not reflect the majority of our women who are very contented to let the men make all the decisions for the family," or "Good grief, if we allow these women to vote there will be utter chaos. Granted they are delightful creatures, absolutely charming — we couldn't get along without them. But allow them to vote? They should be at home busy having babies," or "These are meddlesome problems and women are not capable of handling decisions. Leave it all to us." That sounds very amusing now, but just as this was the case when women dared to ask for the right to vote it is the exact case now.

This flurry of activity on the part of the government to whisk these laws away, right out from under our very noses, shall no doubt sound even more amusing in the history books of our great-grandchildren, because, gentlemen, equality in marriage will not be denied any longer. The move is on, and be it Manitoba, British Columbia, Alberta who bring in these overdue laws first, there is no doubt they shall be brought in. It would have been nice to have Manitoba famous instead of infamous. We almost set a moment in history in societal changes. It is now claimed that these laws are unworkable, yet those who appear to be very well qualified in the law said there are merely technicalities which could be easily corrected by a few amendments. They could easily have been effected now, prior to implementation of the Marital Property Act, particularly before January 1978. I join with many others in urging that you do not tamper with the new family laws.

Insomuch as by your initial choice of lawyers you have employed to rewrite this precious law, new

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legislation, you have also indicated the true intent of haVing these laws rewritten. For those who can obtain a Hansard of June 4th, Saturday 10:00 a.m. session, it shall become abundantly clear — and these can be obtained from the Queen's Printer behind the Bay for a very small fee — I'm wondering if the gentlemen who chose this lawyer had read them at all. You will see that throughout the presentation that lawyer's main concern seemed to be retaining the wealthy businessmen of the province, and not the 50-50 principle of the bill. In his own words, on page 466, he said, "Do you gentlemen really think, are you so naive as to believe that men in that position are going to suffer this bill? They won't. They'll go. They'll leave. They will leave the province." I don't know why he ould have thought that. The women of the province never left for centuries.

MR. CHAIRMAN: Are you speaking to the old bill or are you speaking to this new bill?

MS. PAXTON: I am speaking to the bills at that time that were being presented. I'm speaking to the fact . . .

MR. CMAIRMAN: We're dealing with Bill 5 tonight.

MS. PAXTON: I know you're at Bill 5, and that's what I'm worried about. The women of Manitoba have not left the province for centuries when they did not receive 50 percent. I don't know why the lawyer thought the men should. Now, I must be very naive, I had wondered why that lawyer seemed so sure all the businessmen disliked their wives so much they would leave the province rather than share on a 50-50 basis with them. Now I'm not a lawyer, I've had comments made to me — I understand it's not exactly correct — that there were tax shelters by putting certain properties in the wife's name. Whether that's true or not, I don't know. The lawyers here could tell me. But I've also been told that by having a business under the wife's name they could protect themselves from seizure if they declared bankruptcy. One-half the assets now will be theirs, and they will be feasible.

Are the new laws to be denied so the rich can become richer? I do not believe that women should have to suffer archaic and prehistoric marriage laws because of a very small percentage of Manitoba's elite. They will still have enough to live on while the masses whom these laws will affect can suffer inordinate hardship on marriage breakdown. It can happen; it has happened and it is happening now.

Last week I met a woman who said she is supporting her four children on her own with a full-time job as well as working at Salisbury's on Saturday and Sunday. Her husband has told her he will pound her to death with his hammer if she tries to get money from him. He beat her last spring when she asked for money. She does not try to get justice as she is literally afraid of him. She is also aware how ineffectual the laws are for women of this province as they have been elsewhere also. Yet you say our laws must now be withdrawn so that they can be made perfect. The governments of the past have been authors of the worst imperfections possible in the law, and now you are concerned.

One thing more about that lawyer I was referring to. He was a brilliant man, granted, but he seemed to have a problem of possibly being perceptually handicapped in that he said, "The ladies can have all the justice, all the equity they want under the law as it presently stands." I wonder what he thought everybody was doing here. Of course, he only came on about the last day or so of the hearings, and therefore may have missed the reasons why. I know for a fact how this man could very cleverly twist the truth, because he quoted me as saying that I was a perfect example of somebody who'd come here to tell you the laws were great. And any of you who were here last year may realize that was not the case. —(Interjection)— That's right. And therefore I'm very frightened of what this man can do with the laws. He is very clever. —(Interjection)— Yes. As I said at previous hearings, I was shocked at that time to learn that 75 percent of all maintenance payments were claimed as the statistic as being unenforced and uncollected across Ranada. It became apparent to me that I had been most fortunate in that my ex-spouse had always contributed towards the support of our three children, and that it had been only thanks to his integrity, and not the law, that this had happened. As I told the MLAs at that time, the government will put a man in jail if he steals a \$20 item in a store. They will send a policeman to their door for an unpaid parking fine. But it assumes the role of a helpless popcorn vendor when women and children are sitting in the worst possible state of deprivation because of no-maintenance payments.

MR. CHAIRMAN: Order, order please. Would you take a look at the bill? The bill that we're dealing with is an Act to suspend the Family Maintenance Act . . .

MS. PAXTON: Yes, and we do not want it suspended.

MR. CHAIRMAN: . . . and to defer the coming into force of the Marital Property Act, and to amend certain other Acts and make provisions as required, as a consequence thereof. That's what we're dealing with.

MS. PAXTON: With all due respect, Sir, that's exactly what I'm trying to point out. We do not want them suspended.

MR. CHAIRMAN: No, but may I ask you to try and relate your remarks to the contents of the legislation.

MS. PAXTON: I am relating it. That's exactly what this is about. Okay. MLAs, including those from your own party, have also expressed their concern for this aspect, and I hope, in fact I'm sure that this matter will be looked into. However, if you do not carry through the principles of the 50-50 sharing we will be right back to \$50 a month court award for maintenance payments which the judges now feel is sufficient for a woman with a year old baby. The court records must be full of these cases. The judges know the men will probably not pay a cent if they put it too high, so they compromise. Anne Boss of Mount Carmel Clinic spelled it out to the MLA's about the battered wives who keep returning for treatment. They know they do not have the financial means or job skill to support their children on their own, so they go back to get beaten up again. Everyone has heard of the men who sometimes treat their girlfriends better than their wives. It is a joke unless one happens to be the wife. They look the other way and pretend they do not know because they have seen their neighbours, friends, and relatives who try to break away from the situation are losers. They see that the courts give them a pittance to live on, while the husbands have the major part of earnings to themselves. So they stay because they know the children will suffer, or maybe they love their husbands so well they are going to wait until it blows over. Then there are the men who like to live in the cocktail bars and the wives and children compensate for it by scrimping. Yet, only last week, I heard one of your MLA's tell me and another lady who's here that these laws will give a woman the whip. He said, "The broad will just get her hooks into the man." That MLA shall be nameless. He shall be nameless, as it appeared he quickly realized it was not a fitting remark and appeared sorry he had made it. He even helped me or with my coat. However, the remark still stands to his detriment. Perhaps he will want to erase it completely by defending the principle of 50-50 equality for women.

I do not approve of the fact that a team of hired lawyers are, at this moment, rewriting laws behind closed doors, based on written briefs. These laws were created in the open with the media present. For those who do not agree with the principle of 50-50 sharing, let them come forward and say so in public, so their spouses will be forewarned. That way everyone can be assured that the laws created at the request of the public to the MLA's, who are the elected representatives of the public, will give us the laws we want. We do not want hired lawyers to make these decisions, or to rewrite them in any way, shape, or form.

I have nothing personally to gain by these laws. They will not affect my own situation in the least. However, I have three children, and I expect that all three of them should live in future years under the Marital Property Act. I feel comfortable about it. My son has just started a business which looks as though it may be successful. I think it is right and good that he should share 50-50 all assets which arise from that business with his young wife, not because she went out to work, but because she is staying home and creating a pleasant home atmosphere for him and looking after his child. I have a daughter whom I would like always to be able to be independent and hold her head up, should she be unfortunate enough to someday be married to a man who is selfish or abusive, and she is trying to raise two or three children while he holds the purse strings. And I have a 13 year old son. I hope these laws will be in effect long enough before he marries so it will not be a total shock to him to be asked to share on a 50-50 basis with his wife.

Now I imagine you must all feel the same about your own families. I ask you to consider carefully gentlemen. You buy insurance policies for those you love, but what better insurance policy could you leave for your daughters and your granddaughters than the new Marital Property Act? It will be around to protect them in future years when you perhaps are no longer here. That is why I said, "Cast your bread upon the waters" — the laws you pass today will be the laws your own offspring will live under in the future. No one can accurately predict how marriages will turn out these days. If that is no a sobering thought, then just consider perhaps that one place a woman is not under anyone's control is in a voting booth. Though you say the laws are imperfect, perhaps Hebrews 7:19 of the Bible give the answer — and strangely enough, it was while I was typing a submission on this very subject that my eyes fell on it — "For the law made nothing perfect, but the bringing in of a better hope did." And that's it, gentlemen.

MR. CHAIRMAN: Thank you, Ms. Paxton. Questions of the witness. I thank you for your presentation. Mr. Wilson.

MR. WILSON: Yes. I don't want to use a sort of McCarthyism aspect, but I did write down a number of comments you made, Mrs. Paxton, and I couldn't help but fearing that you wanted us to come forward if we didn't believe in the 50-50 sharing. I think both the Attorney-General and a number of us have indicated that the women of this province will be extremely happy with the legislation after the next session, based on the very comment that the laws you pass today are going to have a profound effect on the future. I certainly couldn't agree with you more on the aspect of equal sharing, but my comment to you is, "Where have you got the indication or the suspicion due to your remarks that the rich will become richer, and some of these comments that are sort of . . ."

MS. PAXTON: Because I'm hearing too many comments in the newspaper and quotes from gentlemen in your party that at first — the comments have changed as time goes by, you see — I read

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the newspaper and what is said one week is changed a little bit the following week — and the comment has been changed. There was the question, they believe in sharing of family assets, but when you come to commercial assets, you get all kinds of wobble-wobbling on that one, and I believe that the justice for the rich woman should be the justice for the poor woman. The rich woman has paid her price too. And I don't believe there should be any question about whether it's commercial assets, 50-50, family assets, 50-50. I believe everything acquired within a marriage should be shared 50-50 all the way, whether it's commercial, family, personal, whatever.

I've heard too many comments that give me reason to believe that these laws will be found workable when in no way, shape, or form will a woman be able to get 50 percent of her husband's business on marriage breakdown. That's when they will be found workable, I believe.

MR. WILSON: So you have been influenced by the media, rather than the comments of the Attorney-General and others, such as myself.

MS. PAXTON: I have talked to some of the MLA's. I've been influenced by the things that they have said. I've talked to lawyers who've been sitting up in the gallery. I've been influenced by comments they've said. And clearly there is a lot of trepidation about the commercial assets. I mean, they're going to let us have half the chesterfield, half the fridge, and so on, but don't you dare think about touching half that business. And I predict that's what will happen.

MR. WILSON: What other things, Mrs. Paxton, can you crystal-ball might happen?

MS. PAXTON: Okay, now I was one, I think you gentlemen will remember last year, who said — the women were wondering whose side I was on there — I said there should be judicial discretion for the very extraordinary cases where it would be totally unjust. Now I was one that did say that. I can see — although to tell the truth, I've been thinking about it — when would it be totally unjust, and I really can't think of an instance if you're going to apply this. Because if the man is a drunkard, then that's an illness and the 50-50 should still apply. If the woman's been the wage-earner, then she's going to have to share with him, because if we want this to apply, we've got to make it effective. It can't be always just for the woman in other words, I'm saying. But I am worried. Now they're coming along — I heard Mr. Sherman the other night — and I have great admiration for your Mr. Sherman, by the way. I wrote him a letter last June and told him that he was one of the MLA's who was held in very high esteem, as well as of course, people like Mr. Pawley, Mr. Axworthy, Mr. Cherniack — the other night at the house, or the other afternoon, he said they're thinking about fault now. He doesn't believe there should be fault in maintenance where there are children. Now what is the difference? If a woman was being immoral, or immoral conduct, whether she had children or whether she didn't, what has this got to do then with justice? If we're going to be just, we're just all the way. The fact that she has children should not excuse her from immorality if it does not excuse the other woman from immorality. There's all kinds of things — all the principles I hear. What I'm afraid of if there's enough judicial discretion, and there's somebody here — I believe it was Mrs. Goodwin pointed out — whoever's got the money to hire the sharp lawyer is the one who's going to win the case, and a good lawyer can make a saint sound like they're walking on eggshells. So if you have the woman who's still at home now — although it's written into the law 50-50 sharing — you didn't grant the women half the pay cheque, so she's still at his beck and call until the day she goes for a separation.

MR. WILSON: I wanted to ask you though — you've hit upon a point — you say, "The laws you pass today should be good laws," and on the other hand you say that those who can hire the sharp lawyers are the ones that are going to come out ahead.

MS. PAXTON: If you allow judicial discretion, I meant.

MR. WILSON: What I'm suggesting is that if you have a good law, then the lawyers won't — in other words, sort of as you pointed out, particular people and problems between two lawyers are like sort of a fish between two cats, and what I'm saying is that we should try to pass good laws so that the lawyers don't feed upon the very problems of society, and I'm agreeing with you there. But it seems to me what you're saying is that money seems to, under the current legislation that the former government was putting through, that the lawyers would have a bonanza. Why wouldn't you want a good law?

MS. PAXTON: What I'm trying to say is, if you get too much judicial discretion in there, you've got something different from what you've got right now. If you have fault in there, you've got nothing different from what you've got right now. I said for the very extraordinary cases. So what I'm afraid of now, as I said in my letter to you, is that with Mr. Houston writing these laws, 99.995 percent of them will be considered extraordinary. He felt that the wife of the rich man shouldn't get 50 percent like the wife of the lower income man should, because she had gone to the hairdresser, she had gone to the salon, and the middle income or low income wife had had to do a lot more housework, and therefore she deserved 50 percent, but not the rich wife. Now that proves to me he didn't understand at all the principles these laws were based on. Otherwise, we would have asked for 1 percent for one coat of

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wax on the kitchen floor, 2 percent for two coats — we're not janitors. We're not asking for 50-50 on the basis of our housekeeping skills.

MR. WILSON: Mr. Houston said all this?

MS. PAXTON: Yes he did. I could write a book about what he said. Because I read it very thoroughly . . .

MR. CHAIRMAN: Order, order.

MS. PAXTON: And I wrote him a letter to tell him . . .

MR. CHAIRMAN: Order, please. Order. May I remind you again, we're dealing with this legislation, not Mr. Houston. We are dealing with this bill . . .

MS. PAXTON: Well, Mr. Houston's rewriting it.

MR. CHAIRMAN: . . . whether it should be suspended or whether it shouldn't be suspended.

MS. PAXTON: It should not be suspended.

MR. CHAIRMAN: Well, let's relate our answers into the questions.

MS. PAXTON: Okay. Now I say, "So what if there are a few technicalities. Aren't all laws? They have to be tried in court before you're positive that you've got problems." Do you know the problems? Mr. Mercier, apparently, has listed the problems, and I've been told by other lawyers that amendments could correct those problems and those laws could be put in January 1st, 1978. If people want them in, that is. If people want them in, they can go in. To me, it's a it's a big snowstorm dust storm, and my own personal feelings are that this big hold-up with the laws is so that there'll be loopholes within the loopholes, and the general public, who has no understanding of the law — I could read them — I wouldn't know from a hole in the ground that they have watered down the principles — but I have no doubt from the choice of your lawyer that that was the intention. And Myrna Bowman is a brilliant woman, but she's one woman against two men who are against it, and, again, we want these laws to stop this balance of power always in favour of the males. We want equality. So you've got two men and one woman. You're just perpetrating it.

MR. CHAIRMAN: Thank you, Mrs. Paxton. Any more questions? Thank you for your presentation

MS. PAXTON: Thank you, Sir.

MR. CHAIRMAN: I call Sharon Granove.

MR. CHERNIACK: Mr. Chairman, I'm wondering if on that happy note, whether you shouldn't notice the time being after 10:00 p.m.

MR. JORGENSEN: Committee rise.

MR. CHAIRMAN: Committee rise, and the committee will meet tomorrow morning at 10:00 a.m.