

## THE LEGISLATIVE ASSEMBLY OF MANITOBA

2:30 o'clock, Tuesday, August 11, 1970

Opening Prayer by Mr. Speaker.

MR. SPEAKER: Presenting Petitions; Reading and Receiving Petitions; Presenting Reports by Standing and Special Committees; Notices of Motion; Introduction of Bills; Orders of the Day. The Honourable Member for Lakeside.

ORAL QUESTION PERIOD

MR. HARRY ENNS (Lakeside): Mr. Speaker, in the absence of the Minister of Municipal Affairs, I direct perhaps a question to the First Minister. Could he indicate when he intends to lift the freezing of land with respect to the Metropolitan Beltway Division, that is the land that has been purchased for the Metropolitan Government Beltway's acquisition program. Could he indicate whether this land is to be taken out of its present frozen state as put by the Minister of Transportation this morning.

MR. SCHREYER: This is a matter which is under consideration for policy determination. When a decision is reached it will be announced.

MR. ENNS: Mr. Speaker, I have a further question directed to the Minister of Transportation. Can he indicate to me and the House when he intends to redress the wrongs that are referred to with respect to the compensation matters . . . of those people . . . Bill 59.

MR. SPEAKER: Order. Order please. I believe the honourable member is well aware that he's asking an argumentative question. Orders of the Day.

MR. JAMES H. BILTON (Swan River): On a point of order, Mr. Speaker. -- (Interjection) -- on a point of order, Mr. Speaker, the question that my honourable friend from Lakeside is referring to was asked in your absence this morning, and all that is being inquired into now is verification . . . of . . .

MR. SPEAKER: Order please. Order please. I ruled on the basis of the question that was asked this afternoon. The Honourable Member for Charleswood.

MR. ARTHUR MOUG (Charleswood): Mr. Speaker, I'd like to direct a question to the Minister of Transportation. Which government was responsible for stopping the expropriation proceedings on the Inner Beltway?

HON. JOSEPH P. BOROWSKI (Minister of Transportation) (Thompson): Mr. Speaker, the member knows very well when we came into office we froze further purchases on the Beltway. There had been about \$3 million worth of purchases made under the table sort of because it was never announced by the previous government that they were buying but there was about \$3 million worth of property purchased. When we came into office we froze purchases pending a study and a review.

MR. ENNS: On a point of privilege. The previous government wasn't buying any land under any table. It was the Metropolitan government - the Metropolitan government of Winnipeg under its statutes as provided for in the Metropolitan Act, purchased certain properties; but to suggest that the previous government was buying land under the table is just a bit more of this bloody nonsense that we're getting here.

MR. SPEAKER: Order. Order please. The Honourable First Minister.

HON. ED SCHREYER (Premier) (Rossmere): Mr. Speaker, I was just going to draw - on a point of order, Sir - I was going to draw attention to the fact that when you call for order it seems that certain members are of the opinion that they needn't necessarily take their seat. That is a shocking performance in our parliamentary system.

MR. SPEAKER: Order.

MR. BILTON: If the Honourable Minister's referring to me, I regret it very much . . .

MR. SPEAKER: Order please.

MR. BILTON: . . . because I certainly didn't intend it.

MR. SPEAKER: Orders of the Day. Order please.

A MEMBER: Mr. Speaker, if the honourable member is referring to me I regret it.

MR. SPEAKER: Order. The Honourable Member for Charleswood.

MR. MOUG: Apparently, Mr. Speaker, the Minister didn't understand my question. I wanted to know which government stopped the expropriation proceedings?

MR. SPEAKER: Orders of the Day.

A MEMBER: You made the statement this morning. Come on, get up. You made the statement this morning.

MR. SPEAKER: The Honourable Member for Roblin.

MR. J. WALLY McKENZIE (Roblin): Mr. Speaker, I have a question for the Minister of Industry and Commerce. I raised the question yesterday with regard to the rapeseed development in Grandview. Has the Minister an answer today?

HON. LEONARD S. EVANS (Minister of Industry and Commerce) (Brandon East): Mr. Speaker, the answer I have today is the same answer I've given to the honourable member for the past several weeks.

MR. McKENZIE: Mr. Speaker, now, what does that mean. Can I assume that the government is not in the . . .

MR. SPEAKER: The honourable member is well aware that the House has no control over what he wishes to assume. The Honourable Member for Emerson.

MR. GABRIEL GIRARD (Emerson): Mr. Speaker, I'd like to direct a question to the Honourable Minister of Transportation. I wonder if he has any further information on the developments of the construction of the overpass on Highway 200 at Emerson.

MR. BOROWSKI: No, Mr. Speaker, I'm sorry to report that I've had no more communications from the CPR or the Board of Transport commissioners.

MR. SPEAKER: The Honourable Member for Roblin.

MR. McKENZIE: Mr. Speaker, my question will be directed to the Minister of Tourism and Recreation. Would this Minister support the rapeseed development plant in Grandview?

MR. SCHREYER: Mr. Speaker, it's a well known usage of parliament that you do not direct questions to a Minister that are not of his portfolio, do not pertain to his portfolio and his duties.

MR. SPEAKER: The Honourable Minister's point is well taken. The Honourable Member for Churchill.

MR. GORDON W. BEARD (Churchill): In view of the announcements on the radio last night, I wonder if the First Minister could make aware any northern deals that have been made in respect to votes for Bill 56?

MR. SCHREYER: Mr. Speaker, any suggestion by anyone that I'm in any way involved, or that any other member in this Assembly is involved with me in some kind of a deal with respect to the passage of other legislation that does not relate, is certainly doing an injustice to myself or to any other member and to the Legislature.

MR. SPEAKER: The Honourable House Leader of the Liberal Party.

MR. GORDON E. JOHNSTON (Leader of the Liberal Party) (Portage la Prairie): Mr. Speaker, I direct my question to the First Minister. It's with respect to the second audit being conducted on the CFI project. Has the report been given to him and if so will he make it public?

MR. SCHREYER: I would have to know more clearly whether the honourable member is referring to the work done by the Provincial Auditor's office or by the engineering firm that was retained.

MR. G. JOHNSTON: Well, Mr. Speaker, either one. I believe the First Minister gave a commitment that he would make the report public.

MR. SCHREYER: Mr. Speaker, there is a draft report, but it is an interim report. The final report from the two persons in question, that is to say the Provincial Auditor's office and the engineering firm, we have not received a final report from the latter.

MR. G. JOHNSTON: A supplementary question, Mr. Speaker. I request the First Minister to make public the draft report.

MR. SCHREYER: Mr. Speaker, I'll certainly take that under consideration but I would want to check with - let us say I would want to check with the practices in other places to see if this is the kind of procedure that is acceptable.

MR. SPEAKER: The Honourable Minister of Agriculture.

HON. SAMUEL USKIW (Minister of Agriculture)(Lac du Bonnet): Mr. Speaker, this morning there were questions put to me on the problems of grain delivery in certain areas of the province. I had my department follow these up and did get some information from the Canadian Wheat Board as follows: They have attempted and I believe have succeeded or are in the process of accepting a four bushel quota on specified acreage for all crops. Specified acreage includes flax and rapeseed. Additional quotas of eight bushels per seeded acre for durum, 13 bushels per seeded acre of rye; flax and rape are open, barley is at the six bushel per seeded acre point. The delivery situation is as follows: The CNR have placed enough cars at all their points to handle extra quotas; CPR, short at some points until last week, now enough cars at all

(MR. USKIW cont'd.) . . . . points. This is the report I have today. The Canadian Wheat Board will investigate each individual complaint re not being able to deliver and if it is legitimate, then allows that person to deliver, latch his quota up to his quota limit.

MR. SPEAKER: The Honourable Member for Pembina.

MR. GEORGE HENDERSON (Pembina): Mr. Speaker, I would like to correct the First Minister. It was 16 bushels on barley and I think probably he didn't mean to say it wrongly . . . 16 bushels.

MR. SPEAKER: Has the honourable member a question?

MR. USKIW: I did say 16, Mr. Speaker.

MR. SPEAKER: The Honourable Member for Morris.

MR. WARNER H. JORGENSEN (Morris): Mr. Speaker, I wonder if I could ask the Minister if he has followed up the matter of the violation of the Noxious Weeds Act with the same alacrity as he has shown on this situation.

MR. SPEAKER: The Honourable Member for Rock Lake.

MR. HENRY J. EINARSON (Rock Lake): Mr. Speaker, I want to direct a question to the Minister of Agriculture. First of all to thank him for the information he has just given, but I'm wondering because of one area I know, one point on the CP line have not had their allocated cars to get their four bushel quota out. Will this still be looked after?

MR. USKIW: Well, as I pointed out in the latter part of my remarks that where there is a legitimate complaint the Wheat Board has indicated that they will allow over-delivery to bring that person up to his rightful share of the quota.

MR. SPEAKER: The Honourable Member for Wolseley.

MR. LEONARD H. CLAYDON (Wolseley): Mr. Speaker, I wonder if I could direct a question to the First Minister and ask him if he can tell us when we can expect the Boundaries Commission Report. He did tell us once in mid-June and then it went to mid-July and then towards the end of July; it's now the middle of August . . .

MR. SPEAKER: Please. Order.

MR. SCHREYER: Mr. Speaker, I'll reply to the first part of the question. I believe I did indicate that the report was expected by mid-summer and I was hopeful that it would be available before the end of June, that is correct. I said so on the basis of advice given me by those who are on the commission, the Boundaries Commission, but I'm sure that the Honourable Member for Wolseley will understand that the date by which the report is completed is determined by the commission, the pace with which they are able to do that work and complete it. I think it is fair to say that it has gone to print but it has not yet been supplied or provided to me.

MR. SPEAKER: The Honourable Member for Wolseley.

MR. CLAYDON: A supplementary question, Mr. Speaker. I wonder if the First Minister would undertake to inform the House tonight if it has gone to print and when we may expect it.

MR. SCHREYER: Well, Mr. Speaker, I certainly can undertake to get that information. I certainly can find out if it has gone to print as yet. I've been advised that it has but I'll check once again. And as to when it'll actually be provided or transmitted depends upon when it's completed and when the commission is ready to transmit it.

MR. SPEAKER: The Honourable House Leader.

MR. GILDAS MOLGAT (Ste. Rose): Mr. Speaker, is the House Leader making a statement or is he - no. Well I have a question before the Orders of the Day - to the Minister of Tourism, Mr. Speaker. Has he anything further to report now on the question of a second national park in Manitoba?

HON. PETER BURTONIAK (Minister of Tourism and Recreation) (Dauphin): No, Mr. Speaker.

MR. MOLGAT: Mr. Speaker, will the Minister table the correspondence that he has had with Ottawa on the subject?

MR. SCHREYER: I'm wondering - is the honourable member wishing all of correspondence, because it goes back to 1964, April of '64 and is quite voluminous.

HON. RUSSELL PAULLEY (Minister of Labour) (Transcona): . . . an Address for Papers and he'll soon be down there anyway . . .

MR. MOLGAT: Mr. Speaker, the Order for Return was once submitted, I think, a long time ago but it lapsed because of an election, so I presume that the material had all been prepared. If it is prepared I'd like to have it.

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

**HON. SIDNEY GREEN, Q.C.** (Minister of Mines and Natural Resources) (Inkster): Mr. Speaker, I move, seconded by the Honourable Minister for Cultural Affairs, that Mr. Speaker do now leave the Chair and the House resolve itself into a Committee of the Whole to consider the following bill - No. 56, the Automobile Insurance Act.

**MR. SPEAKER** presented the motion and after a voice vote declared the motion carried, and the House resolved itself into a Committee of the Whole, with the Honourable Member for Elmwood in the Chair.

#### COMMITTEE OF THE WHOLE HOUSE

**MR. CHAIRMAN:** I believe the Member for Rock Lake was speaking on 6 (1).

**MR. EINARSON:** Mr. Chairman, as I was speaking briefly on Bill 56, Section 1, prior to the lunch hour - or Section 6 (1), I'm sorry - As many members in this House stated as they have risen to speak, it would probably be the last time that they would speak on this bill; this I want to say is, I believe, and as far as I'm concerned, will be making a last effort in having my comments recorded insofar as the people of my constituency are concerned as I represent them.

When we talk about the Objects and the Powers that are vested in the hands of say a few people, a few men in government, in the manner in which this bill is allowing it to be done, I say for ever so many people that I represent, we're confronted with a very serious situation, a very serious matter as we represent our people in this House. As I was speaking before the lunch hour I was speaking as one who had no vested interest, I was speaking on behalf of the people that I represent - and that includes, Mr. Chairman, the agents as well of all the different insurance companies in my area.

You know, Mr. Chairman, as it has always been in the past in this province, governments have been granted powers to legislate; if they saw in an area where people were being exploited by private enterprise, the powers are vested in the hands of this Legislature to correct some wrongs. You know, Mr. Chairman, I am one who is in full agreement that there are areas in the automobile insurance industry that can be changed; some changes that are necessary; changes that are necessary in the interests of the people, of the motoring public of this province; and the powers are there, are vested in the hands of the members of this government, particularly the Cabinet, to legislate and make changes if they so desire.

Mr. Chairman, there are many people that I represent that feel if we're going to allow them to carry their powers to be exercised to the point where they literally take away the right for a man such as an insurance agent, as that way of life that he chose to earn his bread and butter, then I am very very concerned of what the future holds for the people of Manitoba in the future.

When I spoke earlier I mentioned the fact that not only myself but many farmers and people of other walks of life in my constituency not only buy automobile insurance from these companies but they buy fire insurance as well and other forms of insurance, and I asked the question, I wondered about those areas of insurance, and I was quite interested in hearing the comments from the Minister of Mines and Natural Resources: "Yes possibly we could look after that area as well." Mr. Chairman, when I hear those comments from the Minister of Mines and Natural Resources, then I become more concerned than ever, as just how far does this government plan on going in socializing the private enterprise that exists in this province, and how far are they going to go in depriving the rights of an individual the choice of which he wants to make his way of life and to earn his bread and butter. I think these are facts, Mr. Chairman, that I suggest to the government that they should weigh very carefully and give very careful consideration before they cast their final ballot in this House. As I stated, that we can look beyond our borders and see what has happened in another jurisdiction when a government decide to take over a business or a private enterprise.

I don't believe in government getting involved in businesses. I think that we are elected here to legislate and to protect the rights of the people within the province; I believe that is our duty, and not to decide whether men and women are to have a way of life whether they like it or not; and of all the debates that I have listened to from the other side of the House and listened to my own colleagues, on both sides of me, there has been a debate on a type of philosophy, political philosophy if you want to call it, and this is really the crux of the main problem insofar as this whole debate is concerned. The First Minister can bring in all the amendments he

(MR. EINARSON cont'd.) . . . . wishes and to me it's just window dressing; it's window dressing a piece of legislation in order to achieve the powers within this section, window dressing like I have never experienced in my time here and possibly could say for many others who have been here much longer than I have.

The main problem is is that word "monopoly". I can speak for I think, and I have talked to many, many people in my constituency, that they have no objection if the government wants to go in the business of automobile insurance - sure compulsory insurance I think is a good thing, Mr. First Minister, I believe you are on the right track - but if they feel so sure they're going to give better service and they're going to provide a premium, whether it be one area or other areas, I think the people in Manitoba are concerned generally across the board as to whether they're going to have an insurance premium that is less than what they are paying today. I believe that is the area in which most people are concerned; and I'm going to appeal to the First Minister and to his colleagues, and we still have time to give this further thought, as to how far he and his colleagues should go in this matter.

I never thought I'd see the day where I would rise in my place as a politician representing the people in a constituency, where I would have to make such a plea. I think that those members on the other side are reasonable minds, I think that when we were considering a matter of such importance as this, they may, and I hope they will, give consideration to this matter. The word "monopoly", Mr. Chairman, is the key word in this whole debate, that is so important to so many people in the province. I think that if the First Minister and his colleagues have made up their minds that this is what it's going to be then the next move will be his and his members, that they will have to live with this and let their conscience guide them, but I just wanted to, Mr. Chairman, for the record, to make it clear as to how I stand, how I feel on this matter that is very, very important to the people of Manitoba. Thank you, Mr. Chairman.

MR. CHAIRMAN: Section 6 (1)--pass; 6 (2) . . .

MR. JACOB M. FROESE (Rhineland): Mr. Chairman, I had a few things that I wanted to say on this particular section before it is passed. Many things have been said already in connection with this particular section of the bill - and this deals with the functions of the corporation. I find that we have had a wide range of discussion in connection with this particular section, which because of the functions, it covered such a wide range as well. I feel that there will be definitely side effects of this bill once it becomes law.

We have heard from the Minister of Finance in connection with this section when he referred to the provincial government's financial situation and their recent bond sales and that they had been well received when he went out to visit the various countries and also various parts of our country. He mentioned the quick sale, but he forgot to mention one thing, in my opinion, and that was that the interest coupon was also increased by almost 50 percent. Surely on that basis, bonds will sell. There is no reason why people should not sell their various stocks or various debentures or bonds that they might hold and buy a higher bond that will give them a higher rate of return; and this is what happened no doubt. Surely enough if the province can get ahold of money that fast, why the reluctance then to compensate the fishermen which were deprived of their assets last year because of legislation that was passed. Maybe deprived is too strong a word but certainly, as has been pointed out, because the assets became redundant they could not remain in business and as a result their assets became practically worthless as well and these people, as was pointed out at that time, were to receive compensation as well. The Member for Lakeside yesterday, and I think he also touched on it today, in connection with South Indian Lake business that we dealt with last year; I think Bill 15 was a much better bill as far as compensation is concerned than what we have before us now. There is no...

MR. CHAIRMAN: If the honourable member is now going to deal with compensation, I suggest he wait until that section of the bill.

MR. FROESE: I'm not going to deal strictly with compensation; I want to deal with the side effects of this bill that will come with it and there are various other matters that I intend to touch on, but before I pass that item completely - other speakers have been able to dwell fully on that matter in the debate this morning on that particular section - I don't see why I shouldn't make some reference to it. Certainly in my opinion, Bill 15 was a shining example to what we have in Bill 56 because in my opinion, with the present bill we are differentiating between the people that have assets and those that don't. Those that do not have assets, they will be taken care of, they will be provided retraining and they will be able to get welfare payments. On the other hand, those that have assets of some kind, more or less probably are being

(MR. FROESE cont'd.) . . . . . termed capitalists by the government and because of that they are not entitled to fair compensation and this I take exception to; I don't agree with. I feel that these people have, many of them put their savings into their business and that they are entitled to compensation because we are now taking it away from them.

The Minister of Finance I think more or less boasted with their results of the bond issue and mentioned that they were able to get money all across this country and in other countries. He should tell us also that the people dealing in finance, whether friends or enemies, they are interested in making a buck and they will do so. This, I think, goes to say even in wars, that the financial institutions will finance both countries when they are fighting each other, whether friend or foe - they don't mind as long as they get their buck, as long as they get their interest, what do they care, and this holds true, they are interested in getting a return on their capital and that's where it ends most of the time.

But as far as the side effects I feel that we will see many Main Street offices boarded up - and we have quite a few insurance offices in this province in the various towns and cities and we have heard from many people that they will no longer be able to pay the rent, they will no longer be able to maintain their offices, so what will they do? There is not that much new business coming forward to take up that office space and in very many cases they will just board up the windows and I think this will be a very . . .

MR. CHAIRMAN: The Honourable First Minister.

MR. SCHREYER: Mr. Chairman, if I might rise on a point of order. It seems to me, Sir, that you indicated that if debate or discussion was to take place on a particular item such as transitional assistance or the role of agents, that that should come under the appropriate clause or amendment thereto and the Honourable Member for Rhineland indicated that he was going to discuss that only in passing or in relationship to something else, which I rather doubt is in accordance with the rules; but however, assuming that is so, I ask the Chair to take under consideration whether or not the recent remarks, the most recent remarks of the honourable member are in fact, not going back to a question which you asked be dealt with under the appropriate clause.

MR. CHAIRMAN: I thank the First Minister for his comments and I will again say to the Member for Rhineland that he should only touch but not deal with, or not expound on the question of compensation because it is coming up under another section. I also think that he has had ample opportunity in this debate from second reading on, to make a number of points and some of his points I think he is repeating.

MR. FROESE: I don't think I've ever discussed this particular item that I was just discussing at the moment before I sat down. I remember discussing the matter of stifling initiative and this is another thing that I feel will be brought about when we pass this Act; certainly people will think twice about starting a new industry, about going into business and developing, building up something when they don't know - will they be able to carry on, will the government step in at some future date. I'm not saying that this particular administration will do all of that. There may be a continuation of some other governments, once this trend develops, and certainly I think we should be careful what we are doing and not stifle the initiative of people who presently are bringing about new businesses, new industries and really develop our province; because we have been a "have not province" for too long. We have seen Saskatchewan - for all those many years they were a have not province - but recently they have come through to be a "have" province and I don't want to be a member of this House perpetuating this province to be a "have not" province. I would like to see our province go forward to develop, to be a have province and not to be dependent on the social credit provinces of B.C. and Alberta for a hand-out, which is the case because they pay the taxes toward the Federal Government and we get the moneys from the Federal Government -- and Ontario that's right.

MR. SCHREYER: But not New Brunswick . . . Nova Scotia doesn't, that's important too.

MR. FROESE: So I feel that we should be building up rather than tearing down, and this is what we are doing, we are tearing down instead of building.

I am concerned about going into debt and borrowing money all the time, I don't think we can pull ourselves up by the boot strings that way. We have to find other ways and means of bringing about a situation so that we won't have to continually go deeper into debt. I'm sure because of the current borrowing, the moneys that have been authorized, that we will have a much greater burden of interest to carry in the coming year, and in future years and . . .

MR. CHAIRMAN: . . . borrowing powers, I would point out that Section 6 (7) deals with

(MR. CHAIRMAN cont'd.) . . . . . that subject and I think that he might make his comments there.

MR. FROESE: Well if the Chairman feels that I should make another contribution under that section, well then I . . .

MR. CHAIRMAN: Well I feel that you should . . .

MR. FROESE: I thought I would not speak on that particular section, but say what I have to say on this one . . .

MR. CHAIRMAN: I feel you should deal with 6 (1).

MR. FROESE: . . . if that's the Chairman's wish I'll do so.

MR. CHAIRMAN: Thank you. Section 6 (1) pass -- (Nay, Nay)

Hearing some nays I will call for a voice vote.

MR. EARL MCKELLAR (Souris-Killarney): Ayes and Nays.

MR. CHAIRMAN put the question on 6 (1) passing and after a voice vote declared the motion carried.

MR. MCKELLAR: Ayes and Nays, Mr. Chairman.

MR. CHAIRMAN : Call in the members.

We are dealing with Section 6 (1) of the Bill.

A COUNTED VOTE was taken, the result being as follows: Ayes 28; Nays 27.

#### INTRODUCTION OF GUESTS

MR. CHAIRMAN: Before we proceed I would like to direct the attention of the honourable members to the visitors in the loges who just entered the Chamber; a group of Senators and Judges, representatives from the United States, particularly from Missouri and Minnesota and one gentleman from Arkansas. On behalf of the members of the Manitoba Legislature, we welcome you here this afternoon.

#### COMMITTEE OF THE WHOLE HOUSE

MR. CHAIRMAN: (Section 6(2) of Bill 56 was read and passed). Section 6(3). . . The Honourable Member for Fort Garry.

MR. BUD SHERMAN (Fort Garry): Mr. Chairman, we wish to register our objection to Section 6(3) and would wish to have that section deleted from the Bill.

MR. CHAIRMAN: All those in favour -- The Honourable First Minister.

MR. SCHREYER: Mr. Chairman, it would seem advisable for the honourable member to give some further elaboration as to why he regards this section as not being necessary or acceptable.

MR. SHERMAN: Mr. Chairman, I have no objection to giving further elaboration except that in view of the fact that there are other sections on which many of us wish to speak, and I myself wish to speak - not at considerable length but for a few minutes on some subsequent sections - I was intending to expedite matters by simply asking for an opportunity to register our position against this particular section.

MR. CHAIRMAN: All those in favour of Section 6 (3) passing, please say aye. (Mr. Chairman put the question and after a voice vote declared the section carried).

Section 6 (4) -- The Honourable Member for Ste. Rose.

MR. MOLGAT: Mr. Chairman, regarding Section 6 (4), the position of the Liberal Party has been, has been all along and remains, that we are opposed to the Bill in the extent that it does not provide for competition. We have said that, this is still our belief, that the government could set up an agency and provide competition. It appears that we are not going to get our way in this regard; it is therefore our intention to do whatever we can to improve the bill in all its respects insofar as its dealings with the public.

Now I want to make it very clear that that is by no means an acceptance on our part that we agree with the government position of a monopoly government operation, but if we are going to have it then I want to see that the bill is as fair as it can possibly be for all the people involved. Therefore, I wish to move that Section 6 (4) of this Act be amended by deleting the words "as the corporation may desire" in Line 4 thereof and substituting therefor the following words: "As shall be set forth in Schedule "A" of this Act".

MR. CHAIRMAN: The Honourable Attorney-General.

HON. AL MACKLING, Q. C. (Attorney-General) (St. James): Could I ask the Honourable Member from Ste. Rose then to outline what his amendment includes for Schedule "A"? Presumably he has a Schedule "A" to present as part of his amendment.

MR. MOLGAT: I do not have the Schedule "A" here at the moment, Mr. Chairman. I'll be prepared to present one when we reach the end of the Bill, but basically Schedule "A" would simply be a form such as is required now on an application for insurance, asking the standard questions. The whole question, Mr. Chairman, to me, is that we should set forth clearly - and I might add that I have amendments to 6 (5) and 6 (6) of exactly the same type. I don't think it is good to pass legislation merely allowing the government, or in this case, the corporation, to determine by its own wishes and as the bill reads, "at any time" what type of information it requires.

I think here, if we're dealing with a person in (4) who is applying for insurance, in (5) who has suffered an accident, that it should be clearly set out what information is going to be required from that individual, that it should not be left at the changing whims of the Corporation.

Now, I suggest it should be as a Schedule of the Act. There may be other means of doing it, but I don't think it should be left simply that the Corporation can determine in each case what sort of information they want from an applicant. Every applicant should be treated the same, every accident victim should be treated the same.

MR. CHAIRMAN: The Honourable First Minister.

MR. SCHREYER: Mr. Chairman, if it's the Honourable Member for Ste. Rose's understanding that the information that might be required would be not set forth in a form which would be tableable in this House - if that's his understanding of it, then I can appreciate his point, his argument.

The honourable member suggested perhaps there was some other way to do this and that this could be explored but it shouldn't be left as the way it's worded here, which prompts me to suggest to the honourable member that inasmuch as if it's done by regulation, which is then published in the Gazette, the Manitoba Gazette, that this would seem to strike a position somewhere near what the honourable member is wishing to get at, not leaving it therefore to the discretion of the Corporation but having it published in the Gazette by way of Order-in-Council--regulations.

MR. MOLGAT: Mr. Chairman, I think that possibly we have the basis here for compromise that would be acceptable. By leave, I would be prepared to change my motion to read: "as shall be set forth in regulations and published".

MR. CHAIRMAN: Is that agreeable to members of the House? The Honourable First Minister.

MR. SCHREYER: Mr. Chairman, I believe that that would serve the purpose that the Honourable Member for Ste. Rose has in mind in that it would remove this discretionary power and put it in the form where it would be published in an official document for perusal of anyone of the public.

MR. CHAIRMAN: Could the Member for Ste. Rose repeat his wording so that I have it clear.

MR. MOLGAT: "As shall be set forth in regulations and published".

MR. CHAIRMAN: The Honourable Member for Fort Garry.

MR. SHERMAN: I was just going to ask, Mr. Chairman, if you would read the section as amended.

MR. CHAIRMAN: As amended, that Section 6 (4) of this Act be amended by deleting the words "as the corporation may desire" in Line 4 thereof and substituting therefor the following words: "as shall be set forth in regulations and published".

MR. CHAIRMAN put the question and after a voice vote declared the motion carried.

MR. CHAIRMAN: Section 6 (4) as amended -- pass; Section 6 (5) -- The Honourable Member for Fort Garry.

MR. SHERMAN: Mr. Chairman, Section 6 (5) causes us considerable concern largely on the grounds of criticism and objection that were raised by the Manitoba Bar Association in its address to the bill. As pointed out by the Bar Association before the Public Utilities Committee, there is wording here that is so wide as to permit great possible abuse, potential abuse, so wide as to infringe upon the rights of privacy of the individual and in fact to put an individual in a position where he may have to incriminate himself, and the wording . . .

MR. LAURENT L. DESJARDINS (St. Boniface): Mr. Chairman, I wonder if my honourable friend would permit me. Wouldn't it be right to let the Member for Ste. Rose, I think, who indicated that there'll be some amendments anyway on the next three motions, to see if it



(MR. DESJARDINS cont'd.) . . . . . might clarify or correct the point brought up by the member?

MR. SHERMAN: Well, if I may have one more minute, Mr. Chairman, I'm sure the Member for Ste. Rose will have ample opportunity at that juncture, but I want to put our position on the record with respect to it. We're not asking for an amendment; we're asking for deletion of the clause and intend to express our opinion in that direction, on the grounds that - as I was saying - the rights vested in the Corporation under the proposed legislation, would give it, as the Bar Association pointed out, Sir, substantially a broader and wider right in terms of acquisition of information than now reposes with private companies in the field. A broader and wider requirement is imposed on the insured or would be imposed on the insured under the wording in this proposed legislation than is now imposed on insureds who are covered by conventional policies issued by private insurers; and on those grounds and on the grounds of potential area for abuse, the potential danger that exists therein, we wish to register our objection and take exception to that section and intend to ask for its deletion.

Now we're prepared to listen to the Honourable Member for Ste. Rose, but that's our position. We really at this juncture having considered possible amendments, have not found any that to our satisfaction are acceptable.

MR. SCHREYER: May I ask the honourable member two questions relative to the remarks he has just made. The first question is, is it his understanding that the authority given in this clause would be broader and go further than the authority which I understand lies now with life insurance companies, many insurance companies, to ask information of the prospective customers?

The second question is, is the honourable member aware that under existing arrangements it is possible for insurance companies to receive information from the Motor Vehicle Branch having to do with the private records of individuals upon payment of 50 cents or a dollar or some such figure, and that this is something that has been going on for many years, has been allowed. Therefore, I ask the honourable member if he would still wish to argue that the authority that would be given by virtue of this clause would go even beyond that which has been practised in the past?

MR. SHERMAN: Well, Mr. Chairman, I think the First Minister and I discussed this question before and obviously there's not much of a meeting of minds on the subject. It's my fear - I'll put it that way - it's my anxiety and my fear, my concern that as it's presently worded, yes, this section does go beyond the privileges and the latitude currently extended, presently extended to private insurers. I say this because - I say it in large part because we're dealing here with a power vested in a government; we're dealing with a power that really is vested in an agency or a body or a child of government. I don't care what government it is or what party it is; I think there is potential for manipulation and potential for abuse and potential for invasion of privacy that uncovers itself and unfortunately from time to time reveals itself in this type of a context and does not necessarily exist in the field of private competition and private competitive enterprise. The private companies neither have the power of the image of the law behind them nor do they have the access to the same kind of information and records that government does - and I reiterate that I'm speaking of government in a generic and in a general sense, not of any particular government in office at any particular time.

As to his second question - yes, I know that the information to which he refers is available on the payment, I think of a 50 cent fee, but it's my understanding that that's only possible with the permission of the individual concerned. I may be incorrect on that point but it has been my impression that the permission of the individual concerned has to be received before the Motor Vehicle Branch can reveal that information.

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

MR. MOLGAT: Mr. Chairman, I share the concern of the Member for Fort Garry in reading the section as it stands now. It is, in fact, an alarming section if one reads it to the extremes to which it could be carried, when it says the corporation may require any driver or owner and so on, and then "to supply such information to the corporation as it may desire and in such form or manner as the corporation may direct." Well, obviously when worded that way, particularly if you add the possibility that the corporation could expect different kind of reports from different people, which under this section as presently worded it could, because this would allow the corporation any rights whatever as to the type of information it could request, I think that it should not be carried in that way.

(MR. MOLGAT cont'd.)

I come back then to the point I made on the previous section, that what we should have here is again a standard form. Obviously some information must come to the corporation if there is an accident; otherwise they cannot deal with the claim. There has to be some sort of an accident report form which is the present practice with a private insuring company.

Now, my original view was again, that this should be as a schedule to the Act, that we would set forth an accident report form which would require the information or set down the information which someone having an accident would have to fill in and all persons would be treated in the same way. They would know in advance what information they have to supply, they would have a form to do it and that would simply be it.

Now, I recognize some problems in having it as a Schedule to the Act at this particular point and I would like to move an amendment therefore to the section similar to the one I moved on 6 (4), which in this case would read as follows: That Section 6 (5) of this Act be amended by deleting the words "as it may desire and in such form or manner as the corporation may direct" in lines 3 and 4, and substituting therefor the following words, "as shall be set forth in regulations and published".

MR. CHAIRMAN presented the motion.

MR. CHAIRMAN: The Honourable Minister of Finance.

HON. SAUL CHERNIACK Q.C. (Minister of Finance) (St. John's): Mr. Chairman, I obtained a copy of an auto insurance policy which sets out the contractual relationship between the insurer and the insured and I'm glancing at it quickly and I must admit, a little superficially, but I'd like to refer to some of the sections that I read here which I presume is the statutory form, and I'll just take excerpts: "The insured shall promptly give to the insured written notice with all available particulars of any accident, etc., etc.; shall verify by affidavit or statutory declaration if required by the insurer, that the claim arise out of operation and use of the automobile, that the person operating or responsible is the person insured by the policy and shall forward immediately to the insurer every writ, letter, document or advice received by him from or on behalf of the claimant."

Next clause dealing with co-operation of insured in assuring claim settlement - and again I'm just grabbing inserts from it: "An insured shall not interfere in any negotiations but whenever requested by the insurer shall aid in securing information and evidence and the attendance of any witness and shall co-operate with the insurer except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal". Under Loss or Damage through Fire, the insured to give notice of claim, "forthwith give notice thereof in writing to the insurer with fullest information obtainable at the time and shall" - there are other requirements. Then there's a clause dealing with "examination of insured". "The insured shall submit to examination under oath and shall produce for examination at such reasonable place as is designated by the insurer, or its representative, all documents in his possession or control which relate to the matters in question and shall permit extracts and copies thereof to be made."

We have here a contract and if the insured is in breach of the contract in any way then of course the insurer can step in and deny liability on behalf of its liability to the insured, and the provisions, I believe, here are designed to put the insurer in a position of knowing all the facts, all the information which may come up in a contest, because obviously it's unfair to the insurer to be faced with a position which is then negated by something that is not revealed to him which is in the knowledge of the insured person.

Now, I might indicate that I recognize the point made by . . .

MR. SHERMAN: Would the Minister permit a question? Would the Minister not concede that there is a difference between being exposed to and signing a form like that which one has the right to read and if one doesn't like it he can go down the street and do business elsewhere, and subscribing in this Legislature to this kind of a blank cheque in terms of information and the granting of information that does not lay out the limits and the limitations?

MR. CHERNIACK: Mr. Chairman, I should indicate that I was reading from a portion of the policy which is entitled "Statutory Conditions" and these statutory conditions, unless the context otherwise is - (Interjection) - now of course at the present time you have the option not to sign up at all, so that if you don't want insurance, then obviously you don't participate in being in the contract. Now that we are agreed, and all of us - except, I don't know about the Member for Rhineland - all the rest of us are agreed on compulsory insurance and surely therefore it would have to apply that whoever does the insuring needs that kind of protection.

(MR. CHERNIACK cont'd.)

Now I understand the point made by the Honourable Member for Ste. Rose that the corporation under the present wording can ask all sorts of fantastic information. I'm not really sure that anything you'd ask is that improper because the wording does include "information relating thereto", that is information relating to the accident; you can't ask any questions that have no relation to the accident. But surely the insurer is entitled to all the information, I really mean all the information, in the possession of the insured which is necessary to the insurer in order to properly evaluate the accident and the results therefrom, but I can understand his concern and personally, you know, I feel if it's set out in regulations then at least it won't be some secret sort of witch hunt or investigation that might take place that would prove to be unfair, although I'm quite sure in my own mind - again subject to correction - that the Ombudsman will certainly have a role to play. At least I think that that will be a role he could play if this comes into effect. Nevertheless, this kind of safeguard I should think would be understandable.

MR. SHERMAN: Mr. Chairman, may I just say in response to the Minister of Finance that I would agree with him in large part in what he said up to the point where he comes to the term "relating thereto to the corporation" in the third line of the clause under examination. When the bill talks about information relating thereto, in other words relating presumably to the accident, it seems to be acceptable, and certainly if one read no further, it would lull one into a state of if not complacency, at least acceptance, but if you go beyond that point, I submit that the phrase "as it may desire" neutralizes and obviates the phrase "relating thereto" -- (Interjection) -- Well, I submit that in the minds of many persons it would and on those grounds I would articulate my party's case as one of anxiety about and concern about the last few phrases in the last sentence and a half in the section, so it may be - and I think somebody else in my caucus may wish to speak, perhaps my Leader wishes to speak - it may be that we will find the amendment proposed by the Honourable Member for Ste. Rose acceptable, but certainly nothing less than that, Sir, because it does seem that the last 15 words in the clause open up vast areas of examination and operation for the government corporation that could have serious ramifications in terms of invasions of privacy.

MR. CHAIRMAN: The Leader of the Official Opposition.

MR. WALTER WEIR (Leader of the Opposition) (Minnedosa): Mr. Chairman, just one word to say that I would be prepared to support the amendment of the Member for Ste. Rose, although I think it's fair to point out that if it wasn't for Section 26, Section 26 of the Act which exempts this corporation from the Insurance Act, the section wouldn't be necessary and this is the point that we make is that this corporation to all intents and purposes should be subject to the same rules and regulations as other companies that are selling insurance and we have an amendment which we propose on Section 26 that were that handled the same kind of clauses could be included or the same application could exist in relation to the contract as exists with other companies and I think it's only because of the exemption from the Insurance Act under Section 26 that makes this clause necessary within the Act.

MR. CHAIRMAN: The Honourable First Minister.

MR. SCHREYER: Mr. Chairman, I'm not sure at all that there is any difference in opinion in terms of substance. I have the impression that there may well be no substantial point of disagreement here at all, but I rise to make a couple of observations.

First, I have the impression, on the basis of what has been said so far in respect to this clause, that the existing present requirements of the Insurance Act are such that the kind of information that is contemplated and which had been asked in the form of contract which is prescribed by law by private companies, this is the kind of information that is involved here.

Now the Member for Fort Garry may argue that up until this point it was optional whether or not one went on the road driving an automobile with or without insurance. The fact is that a large number of Manitoba motorists would not have it any other way but to have insurance if they were going to be driving on the public highways, so for those people whose economic situation was such and whose judgment was such that insurance to them was really mandatory so far as they personally were concerned, they had no kind of option or alternate response open to them, they had to answer those questions as could be asked by insurance companies and which they asked by virtue of those policies and which they could do by virtue of the Insurance Act which enabled them to ask those questions. So really we are not proposing anything here that is in substance different.

(MR. SCHREYER cont'd.)

Now the Honourable Member for Fort Garry also indicated that he thought that insurance companies as they have operated in the past and as they operate now, that while they can go to the Motor Vehicle Branch, which is a public agency, which has the responsibility of keeping records on drivers, which everyone agrees is necessary, and have accumulated a large amount of data and information on driving records, that insurance companies can go to them, the Honourable Member for Fort Garry admits, and pay a fee of 50 cents or a dollar or whatever it is, but they have to get the permission of the individual. I am advised that that is not the case; that they simply through the mechanism of a credit reporting agency can get that information, and the credit reporting agency in turn goes to the Motor Vehicle Branch as they have for many years and simply pay the fee and get the record. Now one can argue that this is an invasion of privacy that should not be tolerated - well, that's an argument about which one can have considerable discussion back and forth but it has been an existing practice and one which apparently has not led to abuses of any degree that prompted any member in this Assembly to get up to complain and want to change it; so if it's been acceptable up to now, I wonder very much why members would want an alternative or a different method of operation at this time.

Unless perhaps there is a difference in basic point of view between the Honourable Member for Fort Garry and myself, which I don't believe in this particular case, because if it is invasion of privacy that is the problem here, I would suggest to my honourable friend that it shouldn't matter one jot or tittle whether the invasion of privacy is committed by a private or a public agency. It shouldn't matter. If I were the individual whose privacy was being invaded, I can't see how it would make any difference to me at all, whether it was being invaded by a private firm or a public firm; I would regard it as being equally dangerous to my personal liberty. So if the Honourable Member for Fort Garry wishes to expound on that point, perhaps we can have a debate on fundamentals, but if it's merely procedure that is involved here, I suggest that there isn't much substantial difference or point of disagreement.

MR. SHERMAN: Mr. Chairman, I don't disagree for one moment with the First Minister in what he says about invasion of privacy. Invasion of privacy is invasion of privacy whether it's by an individual or whether it's by a corporate entity or whether it's by a state entity, but I suppose I speak perhaps from a suspicion of government machinery and a suspicion of big government. I feel that the average person is intimidated or is liable to be intimidated by government where he is not so much intimidated by an individual or an operator acting in a singular individual capacity. I think there is a tendency to be intimidated by government and under the guise of doing things that are in the interests of the state, and in the interests of society, there have been invasions of privacy before and I think the First Minister would agree with me that man and government being the imperfect institutions that they are, that there will be invasions again. I believe that there is a legitimate anxiety, or could well be a legitimate anxiety on the part of individual citizens of Manitoba over this kind of latitude, this kind of permissiveness where a government agency or an agency that is a child of government is concerned. That's my reason for raising the objections that I have raised; but I would agree with the First Minister that invasion is invasion; I don't think that we are in dispute over that point in any way.

MR. CHAIRMAN: The Honourable Member for Swan River.

MR. BILTON: Mr. Chairman, there are just one or two points I would like to make, I will only be a moment or two. I have listened with interest to the First Minister's reply to my colleague from Fort Garry, and I think he'll agree with me that in the passage of time laws have been made in which you could drive a team of horses through. It seems to me that the law profession has grown fat over the years and our concern is insofar as this section is concerned, that the personal privacy of people shall be protected and that they shall have a say, at least when it gets down to their level, which concerns them particularly in a car accident or whatever the case may be, and it's our responsibility as representatives of the people, as their voice, to see to it that their rights are respected. As my colleague from Fort Garry has talked a moment ago, that governments and bureaucracies developed by governments have a habit over the years of determining rights by way of regulations which go far beyond the intent that we are discussing today dealing with this bill. Once this bill becomes law, Mr. Chairman, there is no turning back and all we are endeavouring to do is see to it that as and when it does become law, it's palatable and acceptable and will stand the test of time when it gets down to the individual in the grass roots of our province.

MR. CHAIRMAN: On the proposed amendment of the Honourable Member for Ste. Rose.

MR. CHAIRMAN put the question and after a voice vote declared the motion carried.

MR. CHAIRMAN: Section 6 (5) as amended --pass; Section 6 (6) . . . The Honourable Member for Ste. Rose.

MR. MOLGAT: Mr. Chairman, the same thing applies in 6 (6); it closes off with the words "as are deemed necessary by the corporation." Once again I think that this should be set forth clearly as to what the corporation may require in the way of notices and proofs or claims; in other words, maybe in somewhat the wording that the Minister of Finance read on the insurance form, which he says is the statutory statement or statutory regulations, but some clarification again of the wording, rather than leaving it up purely to the corporation in their own way, at any time that they want to interpret the matter.

So I move that Section 6 (6) of this Act be amended by deleting the words "as are deemed necessary by the corporation" in line 3 and substituting therefor the following words, "as shall be set forth in regulations and published."

MR. CHAIRMAN: The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, I don't want us to be carried away. The first two aspects dealt with investigation by the insurer, investigations which the insurer has to make in order to satisfy itself that it has all the information required. Now this one is a matter of furnishing proof and it's very similar, I don't know if I can find it again, to the Insurance Act now. There are a number of sections here that are very similar to the Insurance Act, for the very reason pointed out by the Leader of the Official Opposition, and in this case these are forms that are required, proofs of claim, proof of loss, these are all formal matters, and really I think the corporation should have the right to determine the manner in which these forms should be presented. It is no invasion of privacy in this case, because these are the formal aspects of making a claim. I just want to ask the Honourable Member for Ste. Rose, whether there isn't a distinction between the furnishing of proofs of claim and the investigations that have to take place in attempting to satisfy the corporation or the insurer, about its liability. I really feel that he is, you know - well I use the word "carried away", I don't mean in that sense - but rather thinking in terms of the privacy of the aspects where the insured needs protection. In this case, I don't think the insured is entitled or requires protection. I think the corporation should be enabled to require such notices, proofs of claims, proofs of loss, reports, statements, etc., as it requires and it may have to be quite flexible because the nature of the claim may vary. Certainly there's no invasion here. I'm just wondering whether it's really necessary to have it.

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MACKLING: I would like to add to what the Minister of Finance has said - there is no question but all concerned want to insure that the provisions of this Act are reasonable and fair. The Leader of the Opposition has indicated that the simple matter would be to make it subject to the Insurance Act and a lot of these restrictions or a lot of these requirements are spelled out there; but the fact of the matter is that the Insurance Act should not govern the operations of the Corporation in respect to compulsory insurance, because it just doesn't apply, it's not in competition, it's a different aspect altogether. But to suggest that there's something insidious about saying "as the corporation deem necessary" - this is a public corporation, it will be reporting to a Minister responsible to this House, reports can be requested, returns can be asked for all the forms used and all the rest of it and I can't see that we are dealing with something that is going to be at arm's length and can't be controlled. There will be adequate protection, that this corporation will act in a reasonable way. I think that as the Honourable Minister of Finance has indicated, we are perhaps reacting a bit too far. Surely what is indicated here is just reasonable wording.

I think if the honourable member checks with the provisions of the present Insurance Act, you might find that the wording there is a bit more stringent in some cases.

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

MR. MOGAT: Mr. Chairman, if we are setting up a government corporation that is going to be dealing with insurance on a compulsory basis, and on a monopoly basis, I think that we should bend over backwards at all points in the Act to make sure that the insured person has the benefit of the doubt in every case and not the corporation or the government have the benefit of the doubt.

When I see a section that says, particularly the latter part of this one, "and to comply

(MR. MOLGAT cont'd.) . . . . with any other modes of making and proving claims, " I think that if we set it forth clearly, in regulations - I repeat I would still prefer to have it in the Act, and I recognize the problem in doing that at the moment - so if we can have it in regulations, so that the individual, every individual, regardless of where he lives in the province or where he comes from, every individual can turn to a written form and see exactly what he is required to do. The individual then when he's making his contract with the government knows his obligations, knows his rights; whereas this type of wording - and I agree insofar as notices or proofs of claims of loss reports, that these are rather formal things - but when you have to comply with any other mode of making or proving claims, these can be varied at the whim of a civil servant and see no reason why we shouldn't put down clearly what are the obligations of the corporation, and what are the obligations of the insured who sign the contract with the corporation. I would prefer therefore, to see it set down, the type of report that he's expected to make, the type of statement, what method the government wants to see a claim - by what means a person makes a claim and I see no reason why this couldn't be set forth in a regulation, so that the individual knows when he makes a contract with the government exactly what his obligation is, vis-a-vis the government.

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MACKLING: As we've indicated, we have no reason to suspect that the corporation would want it anything otherwise than everything be as fair as possible. We don't think that it's necessary to make this specific amendment, we think that it's really unnecessary to provide the wording, but we'll go along with that, if that will make my honourable friend any happier and provide for more regulation.

MR. CHAIRMAN: The Honourable Member for Rhineland.

MR. FROESE: Mr. Chairman, I think if there is any section in this bill that can delay the payment of claims, this is it. The section is wide open, the corporation can use any method whatever they desire to procrastinate the payment of claims. -- (Interjection) -- Well this is quite different, because this is a monopoly. This is where people will have to pay in. It makes all the difference.

MR. GREEN: It's the same in every insurance company right now.

MR. FROESE: This is something that we devise here, which is supposed to benefit the people and be for the good of the people and I think we should make very sure that we do not put into the bill clauses which are open to any kind of delay whatever. Every time something comes up they can write another letter asking for some more information, delay the claim another three months. This is what we will have in this section and I feel that it should be changed.

MR. CHAIRMAN put the question on the proposed amendment of the Honourable Member for Ste. Rose and after a voice vote declared the motion carried.

MR. CHAIRMAN: Section 6 (6) as amended, pass . . . (Nay?) -- to clarify matters, I'll ask for a voice vote. . . .

MR. CHAIRMAN put the question on Section 6 (6) as amended passing and after a voice vote declared the motion carried.

MR. CHAIRMAN: (Section 6 (7) (a) to (g) were read and passed.) Section 6 (7) . . . The Honourable Member for Rhineland.

MR. FROESE: I think the Minister of Finance and the Minister of Municipal Affairs mentioned earlier that certain statements would be made in connection with the reserves, and I hope that a statement will be made at this time.

HON. HOWARD R. PAWLEY (Minister of Municipal Affairs) (Selkirk): If the honourable member would clarify. I thought I had made whatever statement was to be made on reserves.

MR. FROESE: Well the Minister for Finance stated that this would be done under the borrowing section.

MR. CHAIRMAN: Perhaps the member could clarify his question.

MR. CHERNIACK: Obviously the Honourable Member for Rhineland is mistaken.

MR. FROESE: I'm not.

MR. CHAIRMAN: Section 6 (7) pass . . . The Honourable Member for Roblin.

MR. MCKENZIE: I heard the honourable member correctly; I understood that it would be explained in the borrowing section.

MR. CHERNIACK: Mr. Chairman, to me it's a self-explanatory item. The question raised some time ago was what would happen if there is a shortage in the fund at the beginning

(MR. CHERNIACK cont'd.) . . . . before a surplus is built up, if the fund is in need of money to pay claims, and I think at that time we said that we are coming to a section which gives the corporation the power to borrow. Well now that was the explanation that I gave then and I'm giving now.

MR. FROESE: I think I asked the Minister at that time since this would be a new corporation that would be started off, how much would be put into a reserve to satisfy them so that they could carry on business.

MR. CHERNIACK: Mr. Chairman, at this moment, it seems to me that nothing would be put into a reserve at the beginning, but rather the government will stand behind any possibility of the need in order to be able to lend money to the corporation for the purpose of it being able to carry out its obligation.

MR. CHAIRMAN: Section 6 (7)--passed; Section 6 (8)--passed; Section 6 (9)--passed; 6 (10)-- The Honourable Member for Rhineland.

MR. FROESE: Yes, I had a question under 6 (8). 6 (8) states here that "moneys in any reserve established under Section 12 (1) and such additional moneys as are not immediately required for the purpose of the corporation" - these are to be invested. Who determines additional moneys not immediately required as to the amount? Is it the Department of Finance, the administration act people or is it the corporation?

MR. CHERNIACK: Mr. Chairman, in my reading of this, the corporation will determine, and in my experience with Telephone and Hydro and almost every other fund I can think of, there is always a constant close liaison between the Crown corporation, whichever it is, and the Department of Finance, always discussing the best way to make temporary use of surplus moneys, the moneys change hands frequently in order that all the interests of the people of Manitoba are protected in the use of the money available to it.

MR. CHAIRMAN: (Remainder of Section 6 and Sections 7 to 11 (2) were read and passed) Section 11 (3) . . . The Honourable Member for Souris-Killarney.

MR. MCKELLAR: Mr. Chairman, I'm just wondering about re-insurance. Are the government going to act as the re-insurer for the corporation?

MR. CHAIRMAN: The Honourable Minister of Municipal Affairs.

MR. PAWLEY: This is a matter of course, Mr. Chairman, that will have to be gone into in much further detail once the bill has been passed. -- (Interjection) -- I wonder if the Honourable Member for Roblin is interested in the answer or not.

I would like to simply state that insofar as the re-insurance is concerned, I understand that insofar as the auto is concerned that any re-insurance that might be needed will certainly be available. I think that was the question asked. I know of various companies that would be prepared to participate and I also rest quite assured that the Saskatchewan Government Insurance Office would be quite pleased to participate in a re-insuring reciprocal arrangement between the Manitoba Government Insurance Office and the Saskatchewan Government Insurance Office.

MR. MCKENZIE: Mr. Chairman, then can I ask the Minister a question? The figures that are being given to us -- so now we can assume that re-insurance figures are not included in those figures.

MR. PAWLEY: I don't know just in what reference to what particular figure is loss ratio. When I referred in comparison insofar as Manitoba loss ratio figures and Saskatchewan loss ratio figures last Thursday, in those expense factors in both areas, Saskatchewan and Manitoba, were re-insurance expenses; certainly the Saskatchewan government insurance office has to re-insure and included in those figures were re-insuring expenses.

MR. CHAIRMAN: The Honourable Member for Emerson.

MR. GIRARD: Mr. Chairman, I just wish to ask a question in order to clarify this. Under Section 10 (2) "the Lieutenant Governor in Council may make payment to the Crown corporation that will be existing." Is this correct? Is this the correct interpretation? This is 10 (2); I'm sorry I didn't bring it up right at that time.

MR. CHAIRMAN: Well, I'm afraid we're past that section. Section 11 (2) --

MR. MCKELLAR: Mr. Chairman, I'm interested in this re-insurance. I realize you're going to have to have re-insurance because you can't handle all the risk yourself. No insurance company that's ever operated has ever taken all the risk; it's common knowledge. You have to spread the risk. Have you contacted the Saskatchewan Government Insurance Office to make any agreement or have you did anything about this, or what are your plans?

**MR. PAWLEY:** I'm prepared to be quite frank in this regard that insofar as the Saskatchewan people are concerned, I do understand that they would be quite happy to participate in a re-insuring program between Manitoba and Saskatchewan if this Bill is passed.

**MR. CHAIRMAN:** (The remainder of Section 11 was read and passed) Section 12 (1) -- The Honourable Member for Rhineland.

**MR. FROESE:** 12 (1) says "The corporation shall establish such reserves for the purposes of any plan as may be deemed adequate by the corporation." How much is it? I'm coming to the same question .

**MR. CHERNIACK:** Mr. Chairman, surely surely the corporation is going to deal in a way which will be able to finance its operation and I don't know if anybody but the Board of Directors of any underwriter today make that decision.

**MR. FROESE:** The Chairman says that the government will provide and guarantee the funds; they will provide the funds. I'm asking how much will the government have to provide for the corporation to get established, to get going?

**MR. CHAIRMAN:** The Attorney-General.

**MR. MACKLING:** . . . dealing with reserves and reserve change in respect to accident loss ratios.

**MR. FROESE:** . . . the first year in operation but not when you've . . .

**MR. CHAIRMAN:** (Section 12 was read and passed) Section 13 (1)-- The Honourable Member for Riel.

**MR. DONALD W. CRAIK (Riel):** With respect to Section 13 (1) a fairly strong case was presented at the committee hearings by the Bar Association with respect to 13 (1) as well as 13 (2), but particularly with respect to 13 (1). It would appear that this section should be deleted at this time. I think valid reason was presented at the time of the committee hearings which indicated that it makes difficulty in obtaining discovery for a trial with this section involved.

Now in addition to that, if the government's proposal is adopted, whereby the existing agents would carry on and be representative of the government in carrying out their operations as insurance agents, I would think that probably this would add argument for the deletion of these sections, so that if arrangement is made, that the agents will continue to be responsible to the person taking out insurance. It appears that this Section 13 (1) does not provide any useful function in protecting the rights of the individual when you are subjecting the many more individuals who are taking out insurance, when you are subjecting them to being disenfranchised in their right to sue individuals that may be involved in the obtaining of their insurance. For that reason I would indicate that I would be voting against Section 13 (1) at this time.

**MR. CHAIRMAN:** The Honourable Attorney-General.

**MR. MACKLING:** Mr. Chairman, the Bar submission on 13, and the honourable member has mentioned both clauses of paragraph 13, have been studied and the arguments just don't hold up.

The present Manitoba Hydro Act, for example, the wording is almost exactly the same in respect to provisions of 13 (2) and it's standard practice to have this sort of provision in respect to a Crown corporation and its employees. To suggest now that there's something very wrong or improper about this - and that was the import of the Bar brief - just flies in the face of fact. The fact is that the corporation is responsible, is responsible for the actions of its servants and employees and this is the law. This is the law anywhere where anyone employs anyone. It's the law of the land; it's the common law. If someone commits a wrong, an actionable wrong, a matter of tort, then an action lies against the employer so long as that person was actually in the employ of the person and it was during his normal course of duties, and so on; and to suggest that there's something wrong in this Bill that says that the action will be against the corporation only, not against the individual employee and so on, is flying against, not only established law, the common law, but also against other statute law which we have had on the books in this province for many years, and was accepted by all.

**MR. SHERMAN:** Would the Honourable Member permit a question? I don't challenge the Attorney-General's assertion but I would like to have just a statement from him explaining to me why if this is the common law, the accepted practice, why would the Manitoba Bar Association say the opposite? -- (Interjection) -- Is the Attorney General saying the Manitoba Bar Association doesn't understand the common law?

**MR. GREEN:** Mr. Chairman, I can certainly assert that the representative of the Manitoba



(MR. GREEN cont'd) . . . . . Bar Association who appeared before committee did not understand many features of the law. Yes, I will assert it. The fact is that the lawyer who appeared before the Manitoba Bar Association said he couldn't get discovery and he indicated that they had to trace somebody down and pay \$250.00 to get discovery because an insurance company wouldn't produce them. I asked him whether he ever had a case against the Crown where the Province of Manitoba refused to produce the person for discovery that knew the facts of the case, and he had never had that experience, because the fact is that when the Province of Manitoba is sued, they willingly produce the person who is known to have knowledge of the facts resulting in the case, and this is to enforce the policy of insurance and all it is saying is that for enforcing the insurance rights you sue the corporation. If you have a claim against an employee for something else, you can sue that employee, and when you are enforcing the insurance claim, it's not right to join the typist, and to join maybe the agent that is now involved, and to join 15 other people because you want to examine them all, and all we are saying is that when the corporation is sued, it is the one that has to pay for the insurance and the Crown has always been known to produce for discovery those persons or that person who has knowledge of the facts relating to what the claim is about.

MR. SHERMAN: Well, Mr. Chairman, the Minister of Mines and Resources has me at something of a disadvantage when he's talking about discovery and other terms of that nature which are simply academic terms to me because, as he knows, I'm not a lawyer, and I said I was not challenging the explanation or the assertion of the Attorney-General but I'm interested in that kind of an assessment because the representative of the Bar Association who presented the Bar Association's brief, made the point that the Legislation Committee, I believe it is called, the Legislation Committee of the Bar Association had considered this bill and that this really -- although he said he could not speak and didn't presume to speak for 500 members of the Bar Association, he nonetheless did make the point that this was an MBA submission, not a personal submission.

MR. GREEN: I can tell the honourable member that the member also said, that the person who spoke before the Association also said that really what had happened was that he had been interested, he gained permission of the Association to present the brief. He said a lot of things. He said that this Act was unconstitutional or that he thought that it should be decided whether this Act was constitutional. He said that a witness in a civil proceedings couldn't be asked whether he was convicted of an offence, and he had to be shown the section and the day I showed it to him he still asserted that he knew it even though he told me in the morning - and it's on the record - that the time I showed it to him was the first time he saw it. He said many many things, and I suggest to you that his brief was a demonstration that he and the Bar Association had decided that they were going to attack this bill on any grounds whatsoever, and certainly this would not be a legitimate reason for attacking the bill.

MR. MCKENZIE: Mr. Chairman, am I to assume, then, that under the present Insurance Act of this province that the agents as they operate today are not responsible for their actions by what the Minister has just said? Now I agree with him that there'd maybe be no problems with government, but what about a corporation? How can somebody that has a legitimate problem take on a great big corporation in court and be denied an examination of discovery? -- (Interjection) -- Well, I don't read the section that way and I'd sure like clarification. -- (Interjection) -- Then I ask, Mr. Chairman, why the section? Why the section? Well, I'd like some answers. I want to know how to vote.

MR. CHAIRMAN: The Honourable Member for Riel.

MR. CRAIK: Mr. Chairman, I think another question was asked in addition to that, and that was whether this will apply in the event that the agents are going to carry on as agents for the provincial corporation. Is it going to be the right of the individual to sue the agent who has, through error or otherwise, failed to insure him when he thought he was insured?

MR. CHAIRMAN: The Honourable Minister of Municipal Affairs.

MR. PAWLEY: In answer to the Honourable Member for Riel, the agent could be sued in any event for any omission or act on his part which was negligent in the performance of his duties.

MR. CRAIK: Would it not also be possible, Mr. Chairman, for the corporation to make its own arrangements with its employees and with the agents without writing it into the legislation if that's the policy of the corporation to do so?

MR. PAWLEY: It wouldn't affect the third party in any event. Any agreements to

(MR. PAWLEY cont'd) . . . indemnify, etc., would not affect the third party. Action could still be commenced against the agents.

MR. CHAIRMAN put the question on 13 (1) and after a voice vote declared the motion carried.

MR. MCKENZIE: Ayes and Nays, Mr. Chairman.

MR. CHAIRMAN: You have support? Call in the members.

A COUNTED VOTE was taken, the result being as follows: Yeas 28; Nays 27.

MR. CHAIRMAN: I declare the motion carried. 13(2) -- The Honourable Member for Souris-Killarney.

MR. MCKELLAR: Mr. Chairman, on 13(2). If you read this section very closely there's nobody can sue anybody but the corporation again, the same as 13(1).

It was mentioned in the First Minister's speech some time ago, agents are going to be appointed, insurance agents, as sellers of licence plates on a commission basis. They in turn will be asked to make endorsements (as we call it) because of change of car, change of trucks and all that during the term in between the year. Now if one of these agents forgets to do this very fact, who can I go - who can I take judgment against? According to the Act here, you can take judgment only against the corporation. The Honourable Member for Assiniboia and the Honourable Member for Roblin will tell you very plain that if I make an omission I am the one that's going to pay for it as an agent, because that's the way the laws and the rules are set up.

Now I want to know right now, for the public's sake, if that particular agent who sells license plates, who is changing insurance in the middle of the term for individuals and forgets to do this, through some unknown -- and somebody has an accident, I want to know who the public can take action against, and this is the reason why I am speaking on this very important section in the bill. It is important enough that I think we should, if the government haven't got an answer now, I think we should look into this. It's a different thing when you are an employee than when you're on commission, and this is why I bring this fact up.

MR. MCKENZIE: Mr. Chairman, I support the views of the Honourable Member for Souris-Killarney, because under the present insurance laws of this province, as an agent I am responsible for many things - 13(1) was an example of the jurisdiction of this province; under the Insurance Act of Manitoba, I was responsible for the problems in that section, but in this section here, what happens, I ask, if there is gross negligence on my part as an agent? What happens? Supposing I forget to file a claim, and that happens, and I submit in all my wisdom, in all my power, that I have occasionally, I know of twice that I forgot to file a claim. I am responsible because I am the agent, I am running the show, I'm accepting the commission, and therefore I should be responsible and under the insurance laws of this province I am responsible today, and I wonder why the change. We have lived with it and it's worked well. Now why - who wants to take on a corporation, Mr. Chairman, and sue for, say, \$300? So I'd like a clarification.

MR. CHERNIACK: Might I ask the Honourable Member from Roblin whether he entertains the thought that agents should be sued rather than the insurers?

MR. MCKENZIE: They're responsible. They're the ones that made the error, not the corporation.

MR. CHERNIACK: What about the employees of the underwriters, that is, the clerk who works for the corporation? I'm talking now about private enterprise at the present time. Should they be vulnerable for suit?

MR. MCKENZIE: I would submit, under the present law, that my duty is to get it dated and documented and in the mail, and once the mail stamp is on it then I am no longer responsible. The next person that receives it is responsible.

MR. CHERNIACK: Mr. Chairman, that does not answer my question. Suppose a clerk in an insurance office, let's say - I don't know what company the member represents but one of the companies he represents, suppose a clerk makes a bona fide mistake, should that clerk be liable for large damages that may result from that, or should the corporation?

MR. MCKENZIE: Well, I would submit under those conditions, where they haven't got an agent, then the company should be responsible, but where they have an agent, today under the laws of this province he's responsible.

MR. CHERNIACK: Well then, possibly what the member is suggesting is that this section be changed that no action may be commenced against any person other than a

(MR. CHERNIACK cont'd) . . . . . commission agent -- well, isn't that exactly what he has been talking about, that the commission agent should be made liable for his acts, but he says he agreed that the employee of the underwriter should not be liable.

MR. McKENZIE: . . . only asking. If there is an employee in a corporation that's executing gross negligence . . . .

MR. CHERNIACK: No, no. The wording is a "bona fide act or omission."

MR. McKENZIE: Yes. Well, let's leave it at that. But if there is negligence, who wants to sue the corporation? I think if there is negligence and it can be proved that some individual was the cause of it, then they are responsible, and that's the law we live by today.

MR. CHERNIACK: I realize this is sort of a dialogue but I'm trying to get clarification. Then since this Section 13(2) applies only to bona fide acts or omissions, then that does not exempt anybody from a claim for negligence - and of course the honourable member used the expression "gross negligence," but this is for a bona fide act or omission - then I'm just asking whether the honourable member really wants to make every individual person involved in this entire operation individually liable for acts or omissions which are made in good faith, with integrity, but are made. The purpose of this was to protect this servant of the corporation, be it private or public, and I'm just wondering whether the honourable member wants to make them vulnerable. He says it's better to sue an agent, who is a small man, than a great big corporation, but I'm wondering about that person, be he an agent or be he a clerk, who makes an honest-to-goodness mistake in good faith, and then a stenographer who types a letter with something that is wrong there, then that person is liable to be sued. Is that what he wants? Because I think that's what removal of this section would involve. I don't think that this is a matter of protection to the corporation. I think it's protection to those people who are working for the corporation in good faith.

MR. McKENZIE: Mr. Chairman, all I'm asking for is that we live by the law that we have in the province today, and it's worked well. It's worked well. Why change it?

MR. MACKLING: Well, Mr. Chairman, I just want to point out to the Honourable Member from Roblin what the law is, and I have pointed out the law before but apparently he wasn't listening. Section 13 of the Hydro Electric Board Act -- (Interjection) -- All right - well here's a corporation, a Crown corporation like the one that's under consideration now, and Section 13 of the Hydro Electric Board Act says, "Neither the chairman of the board nor any officer, member or employee of the corporation, nor anyone acting under the instructions of any of them, or under the authority of this Act or the regulations, is personally liable for any loss or damage suffered by any person by reason of anything in good faith done, caused, permitted or authorized to be done or omitted to be done by him or them pursuant to or in exercise of, or supposed exercise of the powers given by this Act to the regulations."

Now, as I indicated, this is a pretty standard practice in respect to Crown corporations exempting the individual employee from liability. It's got nothing to do with commission agents, who then would be in business for themselves, selling insurance. In this case they could certainly be selling public insurance. If they are, then any neglect, act or omission that's made by them that's negligent, is a matter for the courts to decide. It's got nothing to do with that. It's a matter of standard law, and that's what you asked about.

MR. McKENZIE: . . . explain it to me.

MR. FRANK JOHNSTON (Sturgeon Creek): I would just like one thing clear, Mr. Chairman, from the Attorney-General or the Minister of Finance. Is it possible, can you sue the corporation?

MR. MACKLING: Well certainly. 13(1) says that. Read it.

MR. F. JOHNSTON: Well that's fine.

MR. CHERNIACK: May I answer -- well yes, you can sue the corporation, but Mr. Chairman, I really don't believe that the members - well, the Honourable Member for Roblin who's the one that raised it - that he really wants to make it possible to sue the person who works - the clerk, the stenographer, the employee of the corporation - I don't think he wants that.

MR. McKENZIE: I've been an agent. I'm liable for suit for many years.

MR. CHERNIACK: Well now, he is a private contractor, working on his own as an agent, and in that way is a commissioned person, but he's not an employee of the company. Yes, he's a broker - that's right. He brokers out that insurance, and therefore he is an independent person. Actually most agents have a number of companies and they choose the companies, or

(MR. CHERNLACK cont'd) . . . . they with their clients choose the companies, but they therefore are liable for their misdeeds. But this, I think, is a protection only for the employees of the corporation and I don't believe that honourable members of this House really want to make every clerk, every stenographer, every employee liable for their bona fide mistakes - and I'm speaking only of bona fide - but the corporation - and this is law, and this is common law - the corporation is responsible for these errors made in its name by its employees, and I think that that's the way it ought to be, and I'm sure that's the way the Hydro Act was designed the same way. Now I'm really forced to say that I have no greater interest in this on the government side than honourable members on the opposite side should be. There's no principle involved in this, no policy involved, except the principle of a certain amount of integrity between the employer, the corporation, and the people that work for him. I don't think you want to make it difficult for them; I really don't think you want to - and if you do, then it should be clarified.

MR. MCKENZIE: Well Mr. Chairman, I'm only assuming. I am a licensed agent of this province. I abide by the laws of this province, the present insurance act of this province and I, under that act, in my opinion have been liable for any negligence I write, but now I no longer will be.

MR. GREEN: You're still liable. This will not protect you.

MR. MCKENZIE: No, but you sue the corporation.

MR. SCHREYER: Mr. Chairman, it could be that when one starts reading through legal draft language that one can start to trip over himself in trying to interpret it. Trying to keep it in laymen's terms between the Member from Roblin and myself, it seems to me pretty clear that he is taking the point of view that the existing law with respect to liability be more or less maintained, if I understood him correctly - and he nods his head in agreement; and I believe that the Attorney-General has shown to the Honourable Member for Roblin that in all principal respects that is exactly what is involved here, because certainly there is no change with respect to the accountability of agents from the present law. That's not involved in this section. And, on the other hand, the personal liability of an employee of the Corporation would be no different under this section than it is with respect to many other statutes that have been passed in years gone by establishing corporations more or less of this kind, the Hydro Electric Board, the Telephone System, etc. etc., so that existing practice is not being departed from in any major way. -- (Interjection) -- The Honourable Member for Roblin asks why the section. Well then, you know, exactly the same question could be put with respect to that section from the Hydro Electric Board Act, which has that same section. So you know -- there's your answer.

MR. MCKENZIE: Well then, Mr. Chairman, I assume then that the corporation will not live by the insurance laws of this province.

A MEMBER: Well, they make their own law.

MR. SHERMAN: Well, Mr. Chairman, I don't like to prolong this but we will have to ask the indulgence of the Minister of Mines and Resources and the Minister of Finance, because over on this side we are just a bunch of poor, non-legally-trained, members of the Opposition, who take strong exception to almost everything that is in Bill 56 and who are concerned over specific clauses which may be apparent to the Minister of Finance and the Minister of Mines and Resources and to the First Minister, and may read very easily and fall very pleasantly and trippingly upon their ears, but they don't fall very trippingly upon our ears, and 13(2) does not say for the benefit of the uninitiated, like me, 13(2) does not say that if there is an act, a bona fide act of omission, and that somebody, that I or some other individual is injured, legally injured as a consequence of that, and has a legitimate claim of negligence, it does not say that when that act is committed or done by the corporation that the claimant can sue the corporation, that the claimant has any right against the corporation. It doesn't say that. 13(2) doesn't even mention the corporation. It mentions individual persons working for the corporation. That is all. And in my limited knowledge of the legal problems involved here and my passing acquaintanceship with the Manitoba Bar Association brief, I recall that the point was made that at law a person is responsible for his acts, and if they are acts of omission he cannot cite as a defense of law, he cannot use as his defense to a claim for negligence, for example, that he acted in good faith. I believe that point was made and I believe that it's a correct and proper point, and I'm interested in the attitude of complete repudiation which the Minister of Mines and Resources appears to take to the Manitoba Bar Association brief, and I

(MR. SHERMAN cont'd) . . . . would ask him this: is he a member of the Manitoba Bar Association? I believe he is.

MR. GREEN: Yes.

MR. SHERMAN: And is the Minister of Finance a member, and is the Minister of Municipal Affairs a member . . . ?

MR. CHERNIACK: Mr. Chairman, may I answer . . . ? -- (Interjections) --

MR. CHAIRMAN: I would ask the Member for Fort Garry not to arouse each and every member of the government.

MR. GREEN: I would like to ask the Honourable Member for Fort Garry a question. I would like to ask the Honourable Member for Fort Garry a question.

MR. SHERMAN: Let me finish the point I am trying to make and then I will . . .

MR. GREEN: Just one question on that issue.

MR. CHAIRMAN: The Honourable House Leader.

MR. GREEN: Do you agree that the president of the Manitoba Federation of Labour spoke in unison for 35,000 employees in the Province of Manitoba?

MR. SHERMAN: No.

MR. BILTON: Does the Bar Association speak for you?

MR. GREEN: No, they don't. They never have spoken for me.

A MEMBER: Mr. Chairman, would you keep the Member from Swan River . . .

MR. SHERMAN: No, of course he didn't speak in unison for all 35,000 members of the Manitoba Federation of Labour, but the point is that the Minister of Mines and Resources and the Attorney-General and the Minister of Municipal Affairs and the Minister of Finance of this province are four pretty active, pretty energetic, pretty articulate gentlemen, and I'm not prepared to sit here and accept -- would you keep quiet, please -- I'm not prepared to sit here and accept the fact that all four of them, knowing what was going to be in the Manitoba Bar Association brief, being card-carrying, dues-paying, paid up members of the Manitoba Bar Association, allowed that brief to go forward in that way and then when we get into the House they repudiate it and say, "We didn't know anything about it and we repudiate it completely."

MR. GREEN: Mr. Chairman, on a point of privilege. Mr. Chairman, I rise on a point

MR. CHAIRMAN: Order. If the Honourable House Leader has a point of privilege I will listen to it.

MR. GREEN: The honourable member says that we let the thing go in and we didn't say anything and we are now repudiating it. I want the honourable member to know that that's not what occurred. I repudiated it the moment I heard it and I said so.

MR. MACKLING: Well I have a point of privilege, Mr. Chairman. It's simply this.

MR. SHERMAN: You repudiated it too.

MR. MACKLING: Just you hold your tongue while you're not on your feet.

MR. CHAIRMAN: Order.

MR. MACKLING: Mr. Chairman, I don't recognize any voice over beyond. My point of privilege is this. The Member from Fort Garry is suggesting that as responsible members of the Bar Association we apparently were aware of what the brief contained and were knowledgeable about its contents and then attacked it when it came before the committee and are attacking it now. The fact of the matter is, and this is my point of privilege . . .

MR. CHAIRMAN: Order please. I would point out to the honourable member that he is not raising a point of privilege; he is in fact disagreeing with an interpretation of the Member for Fort Garry. I would ask the members to engage in debate rather interrupt on points of privilege.

MR. SHERMAN: All right, Mr. Chairman, I will accept the protestations of innocence and ignorance from the Attorney-General and the Minister of Mines and Resources, and I presume that the Minister of Finance and the Minister of Municipal Affairs would say the same thing, but all I can say is that that fairly boggles the credibility of people on this side of the House to be told that four members of this administration, active, leading legal lights in this province, had no knowledge of what was contained in the Manitoba Bar Association brief. -- (Interjections) --

MR. CHAIRMAN: The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, it's not a point of privilege; I just want to speak.

(MR. CHERNIACK cont'd.) . . . . It's very nice of him to call us leading lights of the legal profession. I must accept any accolade that's thrown, but the phrase that aroused me was the statement that it "boggled his imagination" that we didn't know. He accepted the statement that we didn't know and then it boggled his imagination and affected the credibility - and he used the word "credibility" - of these four members of the Bar. -- (Interjection) -- Oh, the credibility of the Bar. Well, all right, let me speak in defence of the Bar Association.

The Bar Association is a voluntary association . . .

MR. CHAIRMAN: I just wonder if some of this debate is necessary. It seems to me that we are getting away from 13(2).

MR. SHERMAN: May I just make the point, Mr. Chairman, I have not yielded the floor. I haven't yielded the floor.

MEMBERS: Pass. Pass.

MR. CHAIRMAN: Order. I would ask the Honourable Member for Fort Garry to complete his statement and I would also -- he said he did not yield the floor and I would ask him to try to stick to 13(2). It seems to me we're getting off onto some other issues here.

MR. SHERMAN: Well, I haven't yielded the floor, Mr. Chairman, but I thought the Minister of Finance was rising on a point of order and I'm prepared to listen to his point of order.

MR. CHERNIACK: The point of order, Mr. Chairman, is one that I apply to myself as well as to the Honourable Member for Fort Garry. I don't think we should be discussing the merits of the brief of the Manitoba Bar Association; we should be discussing the merits of 13(2), and I'm prepared to limit myself to that if the Honourable Member for Fort Garry will do the same.

MR. SHERMAN: Mr. Chairman, but this is my point. No, this is my point. It's perfectly all right for the Minister of Finance and his legal colleagues to say that, because they have a wealth of legal experience on which to draw, but for those of us who are not legally trained, we are interested in what the Manitoba Bar Association brief had to say and I think it's incumbent upon the government to tell us why, to explain to us why this type of thing is entirely acceptable to them when the Manitoba Bar Association raises what appears to me a legitimate legal argument against it. That's my point, and I say that 13(2) . . .

MR. CHAIRMAN: . . . if the member could quote the argument rather than allude to it.

MR. SHERMAN: All right. In 13(2), Sir, the Manitoba Bar Association brief made the point - and I made a note to myself here so as to quote it directly - made the point that a person is, at law, responsible for his acts of omission and he cannot say as a defence to a claim for negligence that he acted in good faith. And further, if one reads through the import of 13(2) and compares it to what the Manitoba Bar Association brief had to say, one is forced to the conclusion that what Bill 56 is saying in 13(2) is that when such an act, a bona fide act or omission, is committed by the corporation, when it's done by the corporation, the claimant has no right because nowhere in 13(2) does it say that the corporation is responsible. It refers only to individual persons.

MR. CHAIRMAN: The Honourable First Minister.

MR. SCHREYER: Mr. Speaker, the Member for Fort Garry apparently has some difficulty in accepting the argument put forward by lawyers. Quite frankly, sometimes so do I. He and I both have something in common and we both are inclined to be suspicious of the arguments put forward by lawyers, and the honourable member would probably admit - I think he would admit - that even among lawyers there tends to be a division into two broad kinds of legal approaches: the one who is arguing the point of view of a plaintiff's lawyer - and there are many lawyers who approach all legal questions of liability from the point of view of one who is accustomed to acting in the role of a plaintiff's lawyer, seeking ability to sue each and every one - and then there are those lawyers who, because of either temperament or experience or inclination, are approaching these questions of personal liability from the point of view of defence.

Now, the Member for Fort Garry is suspicious about this particular section. I want to be able to draw to his attention that there are almost identical - in fact I would say, in terms of substance, identical provisions - in the Statutes of Manitoba, Chapter c. 310, The Crop Insurance Act - Limitation of liability, Section 25. We have similarly the Hydro-Electric Board, Statutes of Manitoba Chapter h. 190 headed No Personal Liability, Section 13 of that Act. Then we have the Statutes of Manitoba Chapter t. 40, The Telephone Systems Act, and the heading No Personal Liability, Section 20 of that Act, the substance identical to that that is before us for consideration now.

(MR. SCHREYER cont'd)

Now, the Honourable Member for Fort Garry happens to have succeeded an MLA who was the former Attorney-General of this province and who had some responsibility for the drafting of the actual language of these Acts that I have referred to, each and every one of them, and I say to him that what is involved, there's really no difference; it is not changing the basic law as it has been applied in previous statutes of this kind in days gone by.

MR. CHAIRMAN: The Honourable Member for Riel.

MR. CRAIK: I wonder if the First Minister could indicate under The Crop Insurance Act whether the commission agents there are covered by that clause.

MR. SCHREYER: Well, I can read the section; the honourable member can interpret it for himself. The Crop Insurance Act, you said? Section 25: "Neither the managing-director or any other director, nor anyone acting under the instruction of any of them or under the authority of this Act, is personally liable for any loss or damage suffered by any person by reason of anything in good faith done or omitted to be done by him or them or any of them pursuant to or in the exercise of, or supposed exercise of the powers conferred by this Act."

In other words, it is the same kind of provision as applied to those who are in the employ of the Crop Insurance Board; it does not apply to those who are not in the direct employ but who are acting as agents.

MR. CRAIK: Mr. Chairman, in that case, it might clarify the present situation if in 13(2) if the words "any person" were changed to "an employee" of the corporation.

MR. MACKLING: Mr. Chairman, I was going to suggest that perhaps the more definitive language that's used in some of the other Acts that have been referred to, might be spelled out in 13(2) and you'd replace "person" by "employee, director or officer of the corporation." Now, if you include those words . . . But I would like, Mr. Chairman, to say this, because we're going to be dealing with this, if not in the next few moments, throughout the next few hours or whatever it may be.

The Honourable Member for Fort Garry is referring to the Bar Association brief and I certainly respect his right to allude to that document and argue the points that were made by the Bar Association, and they made an argument in respect to this section. Now, there's already been considerable discussion on this, and I would like to point out, Mr. Chairman, I would like to point out, Mr. Chairman, that the Bar Association is not necessarily representative of 100 percent of the thinking of all the people there. I would like. . .

MR. CHAIRMAN: I would ask the Attorney-General to attempt to leave that question aside or deal with it very briefly, if at all.

MR. MACKLING: But Mr. Chairman, it has already been dealt with fairly extensively and I would like to refer to reference to the brief.

MR. CHAIRMAN: It has, but we've also stopped that debate.

MR. MACKLING: Yes, but I would like to point out, Mr. Chairman, how wrong the argument is in this brief on this very section.

MR. CHAIRMAN: Well, if the member is going to respond to the points put by the Member for Fort Garry at the end of his argument, I think it's in order, but otherwise I suggest that he leave it. The Honourable First Minister.

MR. SCHREYER: Rising on the point of order; you have advised honourable members on both sides not to make direct reference to that particular brief in dealing with the subject matter of this section before us, and I would hope, Sir, that you would apply that ruling with consistency and with persistency.

MR. CHAIRMAN: The Member for Fort Garry.

MR. SHERMAN: Mr. Chairman, I'd like, if I may, at this juncture say, and I don't mean to transgress rules and challenge your position, but I think the Attorney-General has a perfect right on the basis of what I said, and I would hope that in the remaining sections in the Bill that if I want to refer to the arguments advanced by the Manitoba Bar Association I'd be entitled to do so.

MR. CHAIRMAN: Well, I believe on that point that that is in order. It's just that the big debate we had about the Bar Association and whether they truly represent their membership - some of that old material I'm trying to eliminate. The fact that a member agrees with certain arguments put forward by the Bar Association I think is in order, but I think he should state them. I think he should stay off the other material.

The Honourable House Leader.

MR. GREEN: I just want to make one point more, and I hope briefly, to my honourable friend the Member for Fort Garry. We've all been looking at this as if somebody is trying to recover because something has gone afoul with their insurance, a citizen and the insurance company. This Act, this section would apply if somebody sued the insurance company and recovered, the insurance company couldn't recover against its employee because the employee would be protected from the company as well. If an employee -- normally an employee who does something wrong, if you sue the employer, the employer has a third-party claim against the employee if the employee has acted negligently. He can recover as against his employee who actually caused the damage, and this section protects the employee of the corporation as well from the corporation so that there couldn't be a claim over and they would be responsible.

MR. CHAIRMAN: The Member for Souris-Killarney.

MR. McKELLAR: Mr. Chairman, I just want to bring out a very important fact. We're not only going to have one company in business in Manitoba from what the government says; we're going to have many companies selling package policies if this bill is passed, and one thing that concerns me about this, you'll have maybe, each car owner could have two individual policies. The government, when they're starting into business the 1st of July, 1971 if this bill is passed, will have a lot of people that never were in an insurance office in their lives, and I mean this, because insurance people aren't that plentiful, good people that know all the -- unless they take all the insurance adjusters, the underwriters and so on down the line.

Now, you're going to be selling package policies and you're going to be selling the general, the basic policies. Now somewhere along the line there's going to be people hurt while this training period goes on, and I mean it is a training period because you cannot train people in insurance until the company actually goes into business the 1st of July, and I for the life of me, if I was running the corporation and I had the decision right over there now, I know what I'd do: I'd go to the SGIO and I'd say I want liability insurance, half a million dollar's liability insurance on every employee in the Manitoba Automobile Insurance Corporation, because this would be the right way to handle it. Then you would have no trouble. Then you'd have no trouble at all. Liability insurance is very popular; every farmer carries it. Why do they carry it? To protect themselves. And this is the way I'd treat it.

Now I know you're going to have a lot of problems, but what is going to happen, very few people will have the money to take the corporation to court unless the amount of money involved is at least 2,000 or more, because it involves a lot of money and very few people have that much cash available, so what will happen -- they'll throw their hands up and they won't bother going to court. Now I would sooner have employees covered by liability insurance, which I don't imagine would cost any more than \$10.00 an employee per year. This is what the basic fee would be -- \$10.00 per employee per year. I understand, I think that the SGIO sell it in their company and I think this, to be fair with the public of Manitoba, if they are going to have to take their insurance with a brand new corporation with very few experienced people, they are going to have to suffer a bit for the first year. I'm not saying you do it after the first year but I think in the first year it would be advisable to take liability insurance.

MR. CHAIRMAN: The Honourable First Minister.

MR. SCHREYER: The comments made by the Member for Souris-Killarney do not really come to grips with the contention I put forward that what is contained in Section 13(2) is precisely the same in content as that contained in at least three other statutes that I made reference to, The Crop Insurance -- (Interjection) -- Well, there's also a great deal of money involved with respect to operations of Hydro and its effect on businesses and homes, and also there's a lot of money involved and financial implications involved with respect to crop insurance. Surely the honourable member, being an operator of a farm in southwestern Manitoba, knows that crop insurance does involve, or can involve pretty substantial financial implications.

The responsibility for any damages caused by acts of bona fide omission or acting in good faith, mistakes but committed in good faith, to use that expression, the responsibility for that ultimately lies with the corporation and they have to make good, and the corporation is not exempted from any action that can be taken against it both with respect to Hydro, the Crop Insurance Corporation and the Auto Insurance Corporation -- it is the same. So, in a sense, it is almost the same as the employee being insured against personal liability or being bonded if you like, by the corporation because the corporation has to stand behind it, so in a sense his suggestion is really incorporated here.

MR. McKELLAR: Mr. Chairman, the problem that I see, there may be 100 or 200



(MR. MCKELLAR cont'd) . . . . . people working in an office, and the policy goes down from the underwriter right down through the policy writers and, you know, - this is on the supplementary and this is what I'm concerned with. I know from experience, and I'll defy anybody a week later to try to find, unless their initials are on it somewhere, try to prove where the responsibility lies. So you go back to the general manager of the company and through him - he's responsible actually, in a sense. Now the difference between crop insurance, and I have crop insurance and I have every type of insurance imaginable because I have to - except errors and omissions, and the Honourable Member for Assiniboia says he carries that - I should carry that too because I'm taking quite a chance. And I'll tell you why he's taking a chance. When I came in Monday morning I had my pockets full of changes in cars and tractors - papers, you know, all over the place, and if I forgot one of those, say a car, and I neglected to do that, 14 days after, the law says you're covered for 14 days, and I forgot when I changed my suit and put it in the cupboard and forgot about it, and that person had an accident where five or six people's lives were lost, that could run up to at least a quarter of a million dollars - and I mean that - in present day values in the courts. The problem is, under crop insurance nobody's life will be lost.

In Hydro, I agree with that, it's a little different. You're losing money on crop insurance but not life. In other words, it becomes very important in a family to lose two or three persons out of the family and everybody should be realizing it. Now under Hydro, there is maybe a little - maybe your arguments are quite true - there are some basic things, maybe a Hydro truck could, you know, happen to kill somebody on the road or some employee, but I think this is a different thing altogether, what we are talking about here. We are insuring something, a commodity. When it goes out on the road you cannot tell what's going to happen with that . . . . The driver could be killed, the passengers could be killed, the people in the opposing car could be killed, you could hit a train like the Honourable Member for Lakeside here, like the Honourable Member from Virden, and anything is just liable to happen. Because I can speak from experience. In 1968 I hit a deer and a steer within a month, and nobody knows better than I do how close I came to the graveyard, but this is some of the things. I really am concerned about errors and omissions by employees because the public of Manitoba are going to be involved, I would say, with 600-700 employees, every one of which could mean the difference on a day or two, like an error in transmitting the change of cars, change of truck or somewhere down the line, or even a driver's - - What happens, in my experience, is that many people do not know the law. Many people do not know the law. They drive a new car. They've traded their car, they drive a new car, change their plates and go on the road thinking they are all covered. They have their agent to advise them eventually but even though you are an agent in the district, it's pretty hard to keep the people advised of what all the laws and rules are. This is why I am really concerned, because of past experience in industry.

MR. CHAIRMAN: The amendment of the Honourable the Attorney-General to amend Section 13(2) by deleting the words "any person" and substituting "any employee, director or officer of the corporation".

MR. CHAIRMAN put the question and after a voice vote declared the motion carried.

MR. CHAIRMAN: Section 13(2) as amended carried. (Sections 14 to 16 were read and passed.) Section 17. The Honourable Member for Ste. Rose.

MR. MOLGAT: On Section 17, Mr. Chairman, some comments were made in the committee stage about the whole question of forfeiture, and whether in fact the government should have the right to forfeiture, whether this was not a section that really went too far. I wonder if the government has had a chance to consider that and whether they would be prepared to consider some changes in that section.

I have a proposed amendment, but I thought that possibly the government might give me a reason why it is worded this way. My amendment is a very small one; I simply would add the words "or non compliance".

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MACKLING: Mr. Chairman, I'd like to say a few words about the suggestion that 17 be amended. I don't know what specific amendment is proposed.

MR. MOLGAT: Well, I rose to ask a question as to why this is brought up again at the committee stage, and I gather, Mr. Chairman, that you don't want us to refer to the brief of the Bar Association, but be that as it may, it was a suggestion that the question of forfeiture should possibly be deleted completely, and quite frankly, I always have a concern on the matter

(MR. MOLGAT cont'd) . . . . . of forfeitures because I don't think that forfeiture is necessarily a penalty that's in keeping with the crime, if you want to put it that way; that it may be an entirely different effect on the individual who loses whatever is taken away from him than what should be. So, has the government considered removing completely the forfeiture, or what is the reason for the section as it is? There may be some valid points.

MR. PAWLEY: Is the member suggesting that forfeiture should be eliminated entirely or the relief from forfeiture?

MR. MOLGAT: No. I think that the forfeiture might be eliminated entirely and some other penalty proposed. Now if that is not possible - and there may be some valid reasons why it can't be done; if there are I would like to hear from the government. In that case, maybe it should be amended, though, not to be, as the relief ought to be greater or more opportunity for relief than what is provided here.

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MACKLING: Mr. Chairman, I won't allude to representations that were made before the committee, except maybe in passing. Any insurance provision has to provide for forfeiture of rights, otherwise the only recourse that an insurer would have would be to cancel the policy, or to take some step like that, and then bring an action in court. Now it's standard practice with insurance and every standard insurance policy provides for forfeiture of rights under certain circumstances, and these are generally fairly well and clearly spelled out. Now they might be in fine print in some cases, but generally speaking it's recognized that this is a technique whereby violations, violations of the insured are rectified or enforced against by the insurer, so this is standard practice.

Now, the section dealing with relief against forfeiture under Section 17 really wasn't understood, I don't think, in the representation that was made before the committee, and I don't believe that a number of the sections were understood by the person making the representation and I -- but I won't refer to those - but the section dealing with Section 17 deals with imperfect compliance and non compliance with time limits and other non fraudulent omissions in the making of claims. But I want to point out that in addition to the relief that's provided here, which was attacked as being, you know, unfair or not broad enough and so on, there is further relief provided by section 33 (1) if we can, Mr. Chairman, be permitted to glance further ahead at the bill, where there is relief granted in respect to forfeiture, relief that can be provided by the Lieutenant Governor in Council, and also there is relief provided under another Act of this Revised Statutes of Manitoba, the Queen's Bench Act, and the Queen's Bench at any time on application can hear an application and, if they consider the case is properly made, relieve against forfeiture, any forfeiture provision in any contract that's made in the province of Manitoba. So that's not only one. Section 17 deals with some relief against forfeiture; 33(1) deals again with relief against forfeiture. In addition, there was another section amended in committee, Section 32(2) and I regret I haven't got the specific amendment here -- yes, which provided that an application to the corporation could follow - relief from forfeiture could follow; that the corporation, notwithstanding the provisions of the regulations in the contract and so on, that the corporation itself could relieve against any harsh provision of the Act, and, as you recall, the amendment says "provided always that where such forfeiture would appear harsh or inequitable, the corporation may relieve any person affected by such forfeiture from the forfeiture of all or any benefits or insurance money."

So in total, Mr. Chairman, the amendment that was made, combined with the existing relief from forfeiture that is provided in the Act before it was amended, and in the Queen's Bench Act, provides ample relief from forfeiture, and I would like to point out to honourable members of the House that the present law in respect to forfeiture, under the existing Insurance Act, is more restrictive than is the forfeiture provisions under this Act, so that, if anything, this Act if it does anything, any substantial change, it makes it less rigid, harsh and inequitable than previous legislation.

MR. CHAIRMAN: The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, many of us have the document presented by the Bar Association and are following it along. The section on 17 starts with the statement: "This is a very disappointing section" and then one goes on and reads criticism. I would like the Honourable Member for Ste. Rose and anybody else interested, to look at Section 17 which is now being discussed while I read Section 226 of the Insurance Act. If the honourable member has drawn a comparison, then I won't take the time, but if he's interested I'm willing to read it.

MR. MOLGAT: Mr. Chairman, I did not rise to make an amendment, I rose to ask the question, and I prefaced my question because the statement had been made in committee that this should be changed, and I wanted to know why the government had decided not to, and the Minister has indicated that this is really an improvement over what already exists. But if there is a further explanation, fine.

MR. CHERNIACK: No, I don't want to take the time to go into it. I might just say that whole sections of the Insurance Act have been incorporated in this Act to make it one readable document without making it necessary to refer to other legislation.

MR. CHAIRMAN: 17--passed; 18(1)--passed; 18(2)--passed; Section 19 as amended--passed?

MR. WEIR: Mr. Chairman, would you read the motion as amended, please.

MR. CHAIRMAN: The amendment to 19 - statements; first of all, in the printed bill it was -- that portion was deleted. The new section reads: "Statements, information and reports made or given to the corporation pursuant to subsections (4) to (6) inclusive of Section 6, Sections 46 and 47, shall be the property of the corporation and shall not be made public."

MR. WEIR: Mr. Chairman, I am just wondering if there is somebody on the government side could tell us what that means.

MR. CHAIRMAN: The Honourable Attorney-General.

MR. MACKLING: It means that, generally speaking, the information that ordinarily was made public previously is still being made public, but this other documentation - for example, the report of the physician - would be not a matter of public information. It would be available, of course, in the event of litigation; upon subpoena duces tecum it would be available to any party in an action, but it wouldn't be a matter of public information.

The other reports - I think that was the key one that was, I think, criticized and perhaps justly so, and my explanation in committee, and I don't know whether the Honourable Leader of the Opposition was there, was that I think that there was some uncertainty as to whether or not the provisions, the present or the ten provisions of the Highway Traffic Act, which was - the Highway Traffic Act amendments were under consideration, that perhaps for some reason those sections which required compulsory information would be somehow embodied in this legislation. But they stand as they are, so therefore the modification to the Insurance Act for, you know, mandatory information was made necessary.

MR. CHAIRMAN: The Leader of the Official Opposition.

MR. WEIR: Mr. Chairman, can the Attorney-General tell us what the difference is between this and the similar clause in the Insurance Act or is it essentially the same?

MR. MACKLING: No I can't -- the insurance . . .

MR. WEIR: Mr. Chairman, the reason I ask is because Section 26 in the Insurance Act I presume is there for good reason in terms of the other companies, and if there's a difference I would like to know what it is and maybe why.

MR. MACKLING: Well Mr. Chairman, disclosure -- I don't think this is dealt with. I'm not that familiar with all the provisions of the Insurance Act, but documentation can be ordered to be disclosed in any litigation in court upon service of documents. Under the present law, the Province of Manitoba, there are certain statements that have to be made by drivers of motor vehicles or persons involved in accidents, pursuant to the provisions of the Highway Traffic Act. Under this Act, the Public Insurance Act, the Automobile Insurance Act, there is a mandatory request for provisions to disclose, for physicians to provide copies of reports of those who are injured, in automobile insurance acts. This is a departure, in a sense, but I want to point out to honourable members that in any litigation, and even in any claim apparatus presently, without going into court, if any person lodges a claim against either his own insurance company or another party, who behind him stands the insurance company, the first requirement by an insurance adjuster, or the insurance claims agent, is a medical report from the injured party, and if they are not satisfied they have a right to apply to the court and obtain an independent medical examination - and this is done, after litigation of course. So it's a simplification of the process. It's not an invasion of privacy; it's something that has been done and carried on for decades. It simply does require, however, that any physician or surgeon who treats anyone does file with the corporation a copy of the report involving that injured person.

MR. WEIR: Mr. Chairman, I realize, not in detail but as a layman does, the processes that exist now, and my question was, and I don't really think it's been answered: is there an

(MR. WEIR cont'd) . . . . extension here of what is under the present law? Well, the Attorney-General says that an adjuster can demand and so on, and if he demands there must be a law on which he is able to demand. It must be found either in the Highway Traffic Act or the Insurance Act and there is no exemption from the Highway Traffic Act as far as I know, certainly not a blanket exemption within the Act, but there is a blanket exemption within this Act at the present time - I hope to do something about that if I can a little later on, but at the present time there's a blanket exemption and I'm wondering whether there is any difference between the Insurance Act and this . . .

MR. CHAIRMAN: The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, of course we must recall that one of the reasons that I had Mr. Swaine on call at the Public Utilities Committee was to be able to answer the more technical questions that arose, and the fact is we were not asked the question that the Leader of the Official Opposition has now asked, and that's unfortunate. Had we been asked that we could have obtained the answer, but . . . -- (Interjection) -- I didn't hear the . . .

MR. WEIR: Well, Mr. Chairman, you know, the amendments were presented, a book of them almost the same size as the bill, just a few hours before consideration of the bill came up, and I didn't happen to be a member of the committee although I did happen to spend as much time as I could at the meetings of the committee, and there are quite a number of the members of this House that weren't a member of the committee as well, and I've sought, and it hasn't been granted to me, Mr. Swaine to come and ask these questions of, and it's been turned down to me on this proposition. And I don't think I'm being unreasonable considering the position of the government is that Mr. Swaine wasn't able to answer questions in any event, it was only the Minister that was going to be able to answer questions.

MR. CHAIRMAN: . . . the Leader of the Official Opposition not to raise that question. I think we discussed that and I think that request was voted down. I consider that matter closed.

MR. WEIR: Well, Mr. Chairman, I just point out to you that it didn't seem to be closed when the Minister of Finance raised it; it only seemed to be closed when I did.

MR. CHERNIACK: I certainly didn't want to arouse anything. I was just saying that it wasn't asked and therefore we were unable or were not in a position to have to get the information. I do want to say that the Honourable Leader of the Opposition attended a great part of the hearings even though he was not a member of the committee, and he may then recall that we discussed the aspects of this particular section. The point was made time and again, both when the Bar Association brief was presented and other times, that reports, medical reports, which is one of the types of things here, were matters that were always produced, not by contract but by negotiation. In other words, the point was made that the companies, in investigating a claim and attempting to negotiate it, would always insist on a medical report from the claimant, and we felt that since that was the practice, we ought to make it the law in this case, so that the corporation would be able to have the information which would be necessary, and really would be necessary particularly when there's any provision for no-fault, and that therefore that right should be given - and we passed that; that's behind us now; we've already dealt with that in the - at least I believe we did - in the bill; that that kind of information is the kind of information that insurance companies have been able to get, not under the Act, not under the Insurance Act, but by threat of refusal to complete negotiations to settle any case or, if the matter were going to court, then it was available to the defendant, to the insurance company by way of court order as by way of examination; so that it was felt that that was the kind of information that was proper for the corporation to be able to acquire, but because of representations and because of discussions, it was felt that the amendment was proper so that it should not become a public document, a document available to the public, and this kind of security was therefore provided by the amendment.

Now I am prepared to try and reach Mr. Swaine to get a specific answer to the specific question, but frankly, it is my impression firstly that the Insurance Act does not provide that, and in any event I think it's reasonable and proper that it should be provided in this Act, but if the honourable leader would like his specific question answered I'll try and get the answer to it.

MR. WEIR: Well Mr. Chairman, I would. I'd like to know what the difference is and I really think it's not an unreasonable question, quite frankly.

MR. CHERNIACK: I didn't say . . .

MR. WEIR: No, I didn't say you did.

MR. CHERNIACK: Okay.

MR. WEIR: I was talking about my belief, Mr. Chairman, and I'm surprised that we're starting to get edgy at 5:30 today instead of 10:30 or 11:00 when we've been starting to get edgy within the Chamber. I really simply asked what the differences were, and if it isn't in the Insurance Act, if it isn't in the Insurance Act and the other companies are getting along with it, I must ask the question for justification as to why it should be in this Act and not contained in the other Act.

MR. MACKLING: Let me explain, if I can, Mr. Chairman.

MR. WEIR: That's what I asked in the first place.

MR. MACKLING: The provisions of this Act, of course, provide for - in compulsory insurance everyone would be insured. It's hoped on the basis of this -- (Interjection) -- Well, maybe the Honourable Member from Roblin can answer the question better, I don't know.

MR. MCKENZIE: . . . you can't guarantee it.

MR. MACKLING: I'm merely trying, Mr. Chairman. And for the expeditious settlement of claims between parties, it's necessary to have the information, because both parties would be insured by the same insurer on the basic coverage, so that in order to have that information, the Act should provide that this information is regularly and properly forthcoming to the corporation.

Now, the information is set out in Sections 4 to 6, and Sections 46 and 47. I think I referred to the medical information, and 47 deals with statements of earnings; and again, as I've indicated, in any claim that I'm aware of that's processed in Manitoba, with or without litigation, this information is demanded by insurance companies before they'll settle a claim. So it's a matter of setting out in the report this specific requirement. Now in Manitoba today, between -- that is, if somebody by the name of Al Mackling, private citizen, has an accident and the other party is at fault and he is trying to collect some damages, the insurance company would request of my lawyer - and I wouldn't act on my own behalf - they would ask how much time I've lost, what my earnings are, what my injuries are, and I would have to establish for the other lawyer or the other insurance adjuster, as the case may be, all these particulars; and so the insurance company would get this information and they would get it and consider it before they made a decision as to what sum they would pay to me, or pay to my lawyer, in settlement of my claim.

Now honourable members and the Honourable Member from Swan River may be more expert on the administration of claims than I am, but I think I'm fairly familiar, so that in the ordinary course this information is obtainable and must be furnished before an insurance company will pay a claim. Now if I or my lawyer say "no, we're not going to furnish that information; we're going to go to court," then once we initiate litigation, then the insurance company defending through the other party - the insurance company doesn't defend in its own name, defending in the name of the other party it's insured - will then demand from my lawyer particulars, and they have a right under the rules to demand particulars of my claim; how much I'm claiming for personal injury; how much I'm claiming for my damages; and in addition they have a right to have me examined by a doctor, under the rules, to have me bring and produce before a court examiner documents which I have which in any way suggest the worth of my claim, and to question me -- (Interjection) -- just a moment - and to question me on oath about all the facts of the accident. So what we're doing, what the corporation is doing, is setting out that for simplicity in the handling of claims between two parties that are insured by this corporation, that these reports will come as a matter of course. It won't be necessary that there be litigation initiated in order to compel the production of reports. If these sections weren't here, it would be necessary that litigation be entered before, under the rules of court, it would be possible to demand these reports. These reports now will come as a matter of course under the provisions of this Act and be available then for proper and hopefully a much more expeditious settlement of claims.

MR. BILTON: Would the Minister permit a question?

MR. MACKLING: Yes.

MR. BILTON: In the private sector that he's been reciting to us a moment ago, is it not a general, accepted fact that it is by consent? It is by consent. If the person concerned does not wish to proceed, that's his right, but under the law it's not.

MR. MACKLING: No, Mr. Chairman, once you lay a claim - once you lay a claim, then you must prove your claim and you have no right to say by consent or otherwise.

MR. PAULLEY: Mr. Chairman, I think this might be an appropriate time for the committee to rise and report.

**MR. CHAIRMAN:** Committee rise. Call in the Speaker. Mr. Speaker, your Committee of the Whole House reports progress and begs leave to sit again.

IN SESSION

**MR. RUSSELL DOERN (Elmwood):** Mr. Speaker, I move, seconded by the Honourable Member for Kildonan, that the report of the committee be received.

**MR. SPEAKER** presented the motion and after a voice vote declared the motion carried.

**MR. MCKENZIE:** Mr. Speaker, before they adjourn the House, how late will we be sitting tonight?

**MR. GREEN:** Mr. Speaker, I am unable to say at this time. I move, seconded by the Honourable Minister for Cultural Affairs, that the House do now adjourn.

**MR. SPEAKER** presented the motion and after a voice vote declared the motion carried and the House adjourned until 8:00 o'clock Tuesday night.