

THE LEGISLATIVE ASSEMBLY OF MANITOBA  
8:00 p.m., Monday, March 15, 1976.

MR. SPEAKER: The Honourable House Leader.

MR. GREEN: Mr. Speaker, I wonder if you'd call the bills standing on the Order Paper in the name of the Honourable the Minister of Labour so that by the time we come to the others maybe some more members will be here.

GOVERNMENT BILLS - SECOND READINGS

BILL NO. 14 - AN ACT TO AMEND THE EMPLOYMENT STANDARDS ACT

MR. SPEAKER: Bill No. 14. The Honourable Minister of Labour.

HON. RUSSELL PAULEY (Minister of Labour) (Transcona) presented Bill 14, an Act to amend The Employment Standards Act, for second reading.

MOTION presented.

MR. SPEAKER: The Honourable Minister.

MR. PAULLEY: Mr. Speaker, may I first of all make a comment in respect of what my colleague the Minister of Mines just said. He's going to ask me to introduce these bills pending the arrival of more members of the Assembly. I appreciate that very much.

A MEMBER: A loss leader.

MR. PAULLEY: Yes, loss leader, that's right. Mr. Speaker, the amendments I'm proposing in Bill 14 to The Employment Standards Act are in the main housekeeping in character. Section 1 of this bill - and I realize, Sir, that we're not supposed to refer to sections - but the bill will require employers to keep a record of the name and the last known address and occupation of each of his employees. The reason for this is very obvious that in normal labour relations, particularly insofar as certification procedure, that it is a requirement that the names and addresses and occupations of each of the employees should be made available to the bargaining unit seeking a collective agreement or to be certified. At the present time the Act only requires that the employer keeps a record of the occupation of each of the employees.

Now under our present legislation there is a requirement that provides that an employer who has prior to the first day of 1949 by custom or practice established a working week not exceeding 40 hours but with daily hours in excess of eight may pay his employees at regular rates. Now this is no longer true in the light of the changes that have been made in The Employment Standards Act. It's thought that we should delete these subsections because they're now irrelevant to our current situation. There will be the continuation, of course, Mr. Speaker, of the authority of the Labour Board by agreement to alter the 40-hour work week to accommodate agreements between employees and employers regardless of whether or not there may be a firm collective agreement.

Then there are other provisions in the Act which are purely of a technical nature tidying up The Employment Standards Act.

Then there is a provision in this Act to increase the percentage of total gross wages for employees in the construction industry for paid holidays from two percent to four percent. That brings into reality the amendments that we have made insofar as consideration for the payment of wages.

These then, Mr. Speaker, basically are those items under consideration with the amendments to The Employment Standards Act. I may say to my honourable friends of the Assembly that there is the possibility that there will be additional amendments to The Employment Standards Act introduced at a later date. But these are the ones of immediate concern and I recommend them to the House.

MR. SPEAKER: The Honourable Member for Fort Garry.

MR. L.R. (Bud) SHERMAN (Fort Garry): Mr. Speaker, I move, seconded by the Honourable Member for Morris, that debate be adjourned.

MOTION presented and carried.

BILL NO. 15 - AN ACT TO AMEND THE VACATIONS WITH PAY ACT

MR. SPEAKER: Bill No. 15. The Honourable Minister of Labour.

MR. PAULLEY presented Bill No. 15, an Act to amend The Vacations With Pay Act, for second reading.

MOTION presented.

MR. SPEAKER: The Honourable Minister.

MR. PAULLEY: I'm sure my honourable friend, the Member for Fort Garry, I might find some support from him in this legislation as he is - well I won't go into that at the present time.

The purpose of this particular bill, Mr. --(Interjection)-- Pardon? Why change it? I'll get back into my normal position in respect to my honourable friend possibly in the next bill, Mr. Speaker. --(Interjection)-- Mr. Speaker, my honourable friend, the Member for Morris, says I need a little heckling. Heavens to Betsy, that's the last thing I ever get from my honourable friend the Member for Fort Garry. Everybody is well aware of that. He looks upon me with benign affection.

However, getting back to Bill No. 15, Mr. Speaker, the object of the suggested amendments is to try and be a little more realistic in the application of the provisions of The Vacations With Pay Act. The way the bill stands at the present time, if a person only worked half an hour in each of the four preceding years, to the entitlement of three weeks vacation with pay, would qualify. That is the way the Act reads at the present time and the suggestion within the bill which I'm introducing takes a more realistic approach in that an employee should work at least 50 percent of the normal time within a year in order to qualify for the period of three weeks vacation with pay after five years.

That is the purport of the bill, Mr. Speaker, and here again I'll recommend it to the House although I realize that in some quarters suggestions have already been made and there's an auction going on that it should be 75 percent or 80 percent or the likes of that, but that is normal. But the purpose of this bill is the recognition that there wasn't any real percentage input before and we are suggesting 50 percent as a requirement by an employee within a year preceding, in order to qualify for three weeks vacation with pay.

MR. SPEAKER: The Honourable Member for Fort Garry.

MR. SHERMAN: Mr. Speaker, I move, seconded by the Honourable Member for Morris, that debate be adjourned.

MOTION presented and carried.

BILL NO. 16 - AN ACT TO AMEND THE WORKERS COMPENSATION ACT

MR. SPEAKER: Bill No. 16. The Honourable Minister of Labour.

MR. PAULLEY presented Bill No. 16, an Act to amend The Workers Compensation Act, for second reading.

MOTION presented.

MR. SPEAKER: The Honourable Minister.

MR. PAULLEY: I am sure Mr. Speaker, that this bill will receive unanimous approval of all members of the Assembly. I have read with a great deal of interest the documentation of the Conservative Party of Manitoba in respect to workers compensation and if I interpret what happened at the Conservative Convention - Manitoba that is, not Ottawa - if I interpret what they said there correctly then I will have their full and hearty support for the amendments for a better deal for injured workers in the Province of Manitoba. I realize that my honourable friend the Member for Fort Garry is wont to go on stage as he often does, that he is wont to go on stage on behalf of the injured workers association, of this association, and the poor, crippled and maimed individual who is suffering as a result of industrial accidents and I would suggest to my honourable friend that he will now have an opportunity of really putting his support where his mouth has been in the past.

I also feel, Mr. Speaker, that it would not be improper for me in introducing this bill tonight to refer to a supporter that I had a number of years ago when endeavours

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(MR. PAULLEY cont'd) . . . . were made by the then CCF Party to improve the lot of the injured worker in Manitoba. The reason I mention today specifically, Mr. Speaker, is because we had the honour and the privilege today to witness the inauguration of the Honourable Francis (Bud) Jobin as the Lieutenant-Governor of the Province of Manitoba and we were so happy to know that. I can recall that honourable gentleman, Mr. Speaker, when figuratively speaking, the CCF Party which only had five members in the House at that time were like voices crying in the wilderness for a better deal for the injured worker. While I recall on one occasion that the then MLA for Northern Manitoba by the name of Francis Jobin at either the Industrial Relations Committee or the Law Amendments Committee, of which we were both members, I introduced a motion at that particular time to increase the benefits of the workmen's compensation as they called it at that time. There was stoney silence. I had, as I say, suggested improvements in the legislation. It didn't seem as though I was going to get any support at all and then lo and behold our present Lieutenant-Governor said, Mr. Chairman, I don't know whether I am running the risk of being kicked out of the party or not but I am going to support the Honourable Member for Kildonan-Transcona, that I represented at that particular time, and I'll never forget that the then member for the North, our present Lieutenant-Governor, was very instrumental in assisting me in starting a progressive improvement in our legislation for workers compensation. I think this is one of the reasons that in the final analysis, because of his calibre, his character, his humanitarianism, that His Honour was selected as the new Lieutenant-Governor of the Province of Manitoba. I could not help, Mr. Speaker, on this day introducing a new deal in workers compensation, but to go back a number of years of endeavours on behalf of the injured workers in Manitoba. --(Interjection)-- Pardon? Well my honourable friend, Mr. Speaker, the Member for Fort Garry wants to know whether it will work for him. Whether he means that eventually he will be the Lieutenant-Governor of Manitoba, I have my doubts, because first of all the Conservatives have to attain power in Ottawa and I don't think the people of Canada are that stupid as of now and I doubt very much whether they will be that stupid in the future. Of course, Mr. Speaker, I am then speaking of Canada and I'm sure, positive today, I have more faith in the citizens of Manitoba that they would ever re-elect an outfit like that who had been so opposed to progressive legislation particularly now that they have a red-headed absentee Leader. Again, Mr. Speaker, in reply to my honourable friend, the Member for Fort Garry if I may, I don't think I shall live long enough to be able to attend his inauguration as the Lieutenant-Governor and I don't think he will live long enough to attain that high honour. --(Interjection)-- I'm sure you are.

However I guess now we had better deal with the particular bill. Mr. Speaker, the following is a summary of the proposed amendments to The Workers Compensation Act. In general terms the amendments extend the coverage of the Act to volunteer ambulance personnel and to the agricultural industry. I want it understood, Mr. Speaker, that when I talk of the extension to the agricultural industry it would not be the intention at this time, on the Royal Assent, to bring that into effect, but there would be continuing consultation with the agricultural industry before proclamation of that particular section of the Act.

Another amendment being suggested, Mr. Speaker, is an increase in benefits payable in fatal cases to provide for benefits to either spouse instead of only widows or invalid widowers as it is at the present time in legislation in respect to fatal cases. It is recognition of course of the equality of the sexes.

We are suggesting an increase in the minimum compensation payable in permanent and temporary disability cases to upgrade past pensions awards by 10.4 percent to 22.9 percent, to provide for the appointment of an assistant officer to assist injured workers or their dependants in all compensation matters and provide for payment of compensation for pre-existing conditions in respect of accidents prior to July 11, 1972. You may recall, Mr. Speaker, that we did introduce amendments to The Workers Compensation Act, I believe two or three years ago, in respect to pre-existing conditions and we had a cut-off date at that particular time effective, if memory serves

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(MR. PAULLEY cont'd) . . . . me rightly, July 1st, 1972. The effects of this --(Interjection)-- July which? July 11th. The year is right though isn't it? I am almost right. July 11th, that's right. Now the purpose of this, Mr. Speaker, is to give recognition to pre-existing conditions whenever they may have happened, something that the injured workers and the supporters of increased benefits have advocated for some considerable period of time.

If I may then generally deal with specifics. The question I mentioned a moment ago, Mr. Speaker, of volunteer ambulance personnel. At the present time benefits under the Act are payable to volunteer fire fighters. It is the intention through this legislation to recognize volunteer ambulance personnel as well.

Regarding the agricultural industry, to which I made reference. At the present time it is not compulsory for persons engaged in agriculture to be covered by Workers Compensation. Effective on proclamation the agricultural industry will be covered on a compulsory basis. As I indicated, Mr. Speaker, it would be the intention of the government to have consultation with the farm organizations to try and arrive at a firm basis for the introduction of this prior to proclamation.

Dealing with the matter of pre-existing conditions. At the present time the Act provides for the payment of compensation for pre-existing conditions. Where a worker suffers a compensable injury and there is a relationship between that injury and a pre-existing condition, the Board must, in addition to any compensation payable as a result of the accident, pay compensation in respect to the pre-existing condition. As I indicated a moment or two ago, Mr. Speaker, the present provision only applies in respect of accidents that occurred after July 11th, 1972. An amendment stipulates that the section will also apply in respect of accidents prior to July 11th, 1972. However in cases where the Board finds a claim under that section to be acceptable benefits are payable only from July 11th.

There's a section being proposed dealing with double claims, Mr. Speaker. At present where a person has a choice of filing a claim in Manitoba or in some other province or country it is not made clear if he loses his right to claim in Manitoba if he files his claim in the other province or country. The amendment proposed will make this amply clear.

Dealing with the question of assistance to injured workers, Mr. Speaker. The Act now provides for the appointment of an assistant officer from the Department of Labour to assist an injured worker in preparing and presenting his case in certain hearings before the Board. As a result of an amendment contained, an assistant officer when requested by the worker or a dependant of a worker, will be required to represent and assist the worker or dependants of the worker in matters relating to compensation. As a result his assistance function will not be limited to certain hearings before the Board. At the present time there is a restriction placed on the type of representation or the areas of representation that the assistant officer can make before the Compensation Board. It is proposed, Mr. Speaker, in this amendment that there will no longer be a restriction, that the assistant officer will be eligible or have the right to deal with all aspects of a worker's compensation case.

Benefits to widowers. At the present time where a worker dies as the result of a work accident benefits are payable to a widow or an invalid widower. There is no provision, Mr. Speaker, at the present time for payment of benefits to a widower who is not an invalid where his spouse dies as the result of a work accident. We have had some instances where the female has been the major source of income and has died as a result of an accident, Mr. Speaker, and the remaining spouse has been prohibited from receiving the benefits of compensation. Here again is an application of the broad principle of equality of the sexes.

Numerous amendments to the Act are being made to provide dependent widowers with the same benefit entitlements as a widow in fatal cases. However I do say, Mr. Speaker, there's no retroactivity in these. It will only deal with cases that occur in respect of future cases.

There is a provision in the Act, Mr. Speaker, dealing with lump sum payment in fatal accidents. At the present time the lump sum payment payable to a widow or

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(MR. PAULLEY cont'd) . . . . foster parent in fatal cases is \$650. This will be increased to \$750 and will be payable to the surviving spouse. Again carrying through the principle of equal treatment insofar as sexes are concerned.

Also there is another change, Mr. Speaker, that in cases where there is no surviving spouse this amount will be paid to the deceased worker's estate or to such person as the Board may determine. At the present time if there isn't a surviving spouse the payment is not made in respect of the deceased worker.

Benefits to children and surviving spouse. These are going to be increased. In respect of fatal cases prior to January, 1974, the widow's allowance is \$250 per month; the children's allowance range from \$70 to \$90 per month. That is at present. Providing this legislation is passed, effective on July 1st of this year, the widow's allowance in such cases will be increased from \$250 to \$310 per month and the allowances for children will range from \$77 to \$99 per month. In respect of fatal cases after December 31st, 1973, and before the coming into force of the new amendments respecting benefits in fatal cases, widows' and children's benefits were 75 percent of the deceased worker's average earnings, that is the amount that the worker would have been entitled to had he been permanently and totally disabled. However, in such cases compensation would be higher if calculated in accordance of the above, the dependants would be entitled to higher compensation.

In respect of fatal cases coming into force after the new amendments, compensation will be payable on the same basis as the average was I mentioned a moment or two ago. However in such cases benefits would be payable to the surviving spouse, namely either a widow or a widower.

The question of past pensions has been a matter of some concern, Mr. Speaker, for some considerable time. Over the past several years, pensions that had been awarded in past years have been increased periodically because of increases in the cost of living. Effective on July 1st of this year, providing we have the support for this legislation, pensions awarded in respect of accidents that occurred prior to January, 1974, are increased by 22.9 percent; pensions awarded in respect of accidents that occurred after December 31st, 1973, but before January 1st, 1975, are increased by 10.4 percent. These increases will not apply in respect of permanent partial disability cases where the degree of disability is rated at less than 10 percent.

Mr. Speaker, at the present time the minimum amount of compensation payable in permanent total disability cases is \$250 per month. Effective on July 1st of this year that minimum is to be increased to \$400 per month. The minimum pension payable in respect of permanent partial disability cases is to be increased on a proportionate basis. Also, Sir, minimum compensation payable in temporary total disability cases is also to be increased from \$250 to \$400 per month.

Another amendment contained in the Act deals with independent contractors, Mr. Speaker, so that independent contractors may, on application, be admitted to the Board as being within the scope of the Act. An amendment extends the definition of the term "independent contractor" to include a self-employed person engaged in any of the industries covered by the Act.

I recommend these changes to the House, Mr. Speaker, and while I realize that in some quarters inside and outside of the House as well these suggested increases are not all that are desired I would respectfully suggest to members of the Assembly that with the adoption of the proposals contained within this bill Manitoba will continue to be one of the more progressive provinces in the realm of the application of workers compensation.

In conclusion, I say, Mr. Speaker, it is not all that is desired. But I do suggest that it is and should be acceptable to all members of this House who have on numerous occasions pleaded for a better deal for the sufferers in industrial accidents.

MR. SPEAKER: The Honourable Member for Fort Garry.

MR. SHERMAN: Mr. Speaker, I wonder if I might be permitted to ask the Minister one question with respect to the increases in allowances for accidents and the reference to impairment of the workman. Does the 10 percent figure relate to the total physical capacity of the workman or when you're talking about impairment are

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(MR. SHERMAN cont'd) . . . . we talking about a particular part of the body which is rated at a percentage of the total?

MR. SPEAKER: The Honourable Minister.

MR. PAULLEY: Not precisely. Partial disability pensions are rated on a percentage basis insofar as the incident of injury is concerned and that is the reference contained in my remarks.

MR. SHERMAN: I move, Mr. Speaker, seconded by the Honourable Member for Morris, that debate be adjourned.

MOTION presented and carried.

BILL NO. 25 - AN ACT TO AMEND THE HIGHWAYS PROTECTION ACT

MR. GREEN: Bill No. 25, Mr. Speaker.

HON. PETER BURTONIAK (Minister of Highways) (Dauphin) presented Bill No. 25, an Act to amend The Highways Protection Act, for second reading.

MOTION presented.

MR. SPEAKER: The Honourable Minister of Highways.

MR. BURTONIAK: Mr. Speaker, I don't intend to do any reminiscing tonight although there are certain parts of this bill that go back a number of years that we are proposing some changes in.

First of all I would like to point out that this Act is presently administered by the Traffic Section of the Board established under The Highway Traffic Act known as the Highway Traffic and the Motor Transport Board. When The Highways Protection Act was first enacted a separate board was constituted with the responsibility for the administration of the Act. Subsequently it was decided to establish a single board with a dual responsibility: that of administering the motor transport industry and the provisions of this Act as well as certain provisions under The Highway Traffic Act relating to the establishment of speed limits, approval of traffic control devices and other matters.

Because the work of the combined board divided quite naturally into two sections, namely Motor Transport and Highway Traffic, a logical ordering of board function has for the past several years resulted in a de facto division into two separate boards, one dealing exclusively with matters relating to the motor transport industry and one dealing exclusively with highway traffic matters.

In the proposed amendments to The Highways Protection Act a separate Highway Traffic Board would be constituted with responsibilities to administer this Act and those provisions of The Highway Traffic Act relating to the establishment of speed limits, approval of traffic control devices, and certain other matters. The board would be composed of not less than three persons. To a very large extent these amendments are re-enactments of existing provisions contained in The Highway Traffic Act with several notable additions.

An amendment is also provided which would permit the Board to conclude a hearing and render a decision in the event a quorum is lost by reason of death, resignation or the incapacity of a member. As honourable members know at the present time if a quorum is lost the remaining members cannot render a decision on the application. This could result not only in great inconvenience to the applicant and parties opposing a particular application but also involve substantial costs particularly where the witnesses have been called.

The amendments also exempt members of the Board from personal liability for anything done or omitted to be done in good faith. At the present time members of the Board have no such protection of immunity and conceivably where someone deems himself injured by a Board's decision, a suit for damages could be launched against the Board or a single member.

An amendment is proposed which will ensure the changes in the use of a road or driveway entrance or exit from a limited access highway is subject to the approval of the Board. The way the present section reads, a road or driveway or exit that is in existence prior to the time the highway became a limited access highway could be used for a new purpose altogether as well as the fact that its use was limited and . . .

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(MR. BURTNIAK cont'd) . . . . by a different use of the property. As an example, it could have been a residential access road or driveway and with industrial development, the land having now become available for industrial use, the driveway or exit could be used for purposes other than that for which it was originally intended. In order to effectively control the use of such driveways this amendment is considered necessary at this time.

A new provision is also proposed which would empower the Traffic Board to issue a permit for the relocation of any facilities of a public utility without the necessity of holding a hearing where such relocation is necessary in connection with the construction or repair of highways. At present such permits cannot be issued without holding a public hearing. It seems unreasonable to have to put a utility to the trouble and expense of a public hearing. The Board should have the power to exercise its discretion in such matters in issuing a permit where it deems it would not be detrimental to public interest.

Under the existing Act the Board must not only give notice to all persons interested in a particular application before the Board, but wait seven days before holding a hearing into the application. Occasions arise where there is some urgency. Accordingly a new amendment is proposed which would permit the Board to abridge the time required for the hearing and dispense with formal advertising provided that the applicant is able to secure the consent of the traffic authority of the highway, the council of the municipality, the planning authority for the municipality and the registered owner of the surface of that land.

The intent of this Act to protect the highways, to achieve this objective it is necessary frequently to control the use to which lands in that controlled area are put as well as to the control entrances and exits on highways and the erection of unsightly buildings along a controlled highway. The proposed use of the controlled area of the land adjacent to a controlled highway has a considerable bearing on the use that is made of the highway itself. For example, the development of a commercial mobile trailer park beyond the control line would clearly have a major impact on the highway usage. Accordingly amendments are proposed which would clarify the purposes of the Act and also authorize the Board to exercise jurisdiction over use of driveways, entrances, and the use of the controlled area of land adjacent to a controlled highway.

A further new amendment is proposed to this Act which would empower the Traffic Board to cancel or suspend for a stated period of time any permit issued by it where the permittee has failed to meet the conditions imposed by the Board. This would be in addition to any other penalty which may be imposed under this Act for non-compliance with the Board order. The Board would not be able to either suspend or cancel such permit without first giving the permittee ten days' notice in writing and an opportunity to be heard. The proposal is vital if the Board is to have powers to control abuses of permits it has issued where the permittee fails or refuses to comply with the conditions the Board has imposed.

In the early '60s the Highway Control Measures were introduced to ensure protection of the highways. In the recent past a court decision was rendered that invalidated a highway control measure on the basis of an alleged lack of notice. It is imperative of course not only that highway control measures previously established be secured but also that the reasonable notice requirements provided in the Act not be subject to further challenge. Accordingly amendments make provisions for this.

Since the Act was printed, Mr. Speaker, we have noticed a typographical error and a redundancy which I propose to correct at Law Amendments Committee.

Additionally I was concerned there be no misconstruction of the power of entry that is sought in order that on site visual inspection can be made by the Board staff or Highway staff in dealing with an application for a permit or the use being made of a permit. I have therefore had the further amendment proposed which I believe will indicate the reasonable use for which entry is required.

I believe these amendments will improve the logical administrative functions of the Board and the effectiveness and responsiveness of the Board to meet the needs of the people whom it serves.

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MR. SPEAKER: The Honourable Member for Birtle-Russell.

MR. GRAHAM: Mr. Speaker, I beg to move, seconded by the Honourable Member for Fort Garry that debate be adjourned.

MOTION presented and carried.

MR. SPEAKER: The Honourable House Leader.

MR. GREEN: Mr. Speaker, would you call the Resolution on page 2 in the name of the Attorney-General.

PROPOSED RESOLUTION - SPECIAL COMMITTEE RE OMBUDSMAN

MR. SPEAKER: The Honourable Attorney-General.

MR. PAWLEY: Mr. Speaker, I beg to move, seconded by the Honourable the Minister of Mines and Natural Resources,

WHEREAS Section 2(2) of The Ombudsman Act requires that "Where the office of the Ombudsman is vacant the assembly shall, by resolution, appoint a Special Committee of seven members of the assembly to consider a person suitable and available to be appointed as Ombudsman; and the Special Committee shall make recommendations in respect thereto to the President of the Executive Council"; and

WHEREAS the appointment of the present incumbent George W. Maltby will expire as of April 1st, 1976,

THEREFORE BE IT RESOLVED that a Special Committee of the Legislature composed of the Honourable Messrs. Hanuschak, Pawley (Selkirk), Schreyer, Craik, Graham, Johnston (Portage) and Shafransky be appointed to consider such recommendations.

MOTION presented.

MR. SPEAKER: The Honourable Member for River Heights.

MR. SPIVAK: Mr. Speaker, I assume that there is to be discussion on the resolution or there can be. If I may I would like to make one comment with respect to it. It's made in the interest and in the hope that as the Committee meets to both reconsider the position of the Ombudsman and the person that holds that office that there will be consideration as well to a recommendation that the Ombudsman come before a Committee on a regular basis, come before the Committee on a regular basis to be given an opportunity to be able to appear and to be examined on his Report and on his activities. I say that because I know that there has already occurred one occasion when in fact the House did call him before the Committee and they have that power to do that.

But I don't think that there should be particulars in this connection. I think it should be something that should occur on a regular basis and I think that it is something that the Committee should consider and should consider as a means to assist the carrying out of the function of the office of the Ombudsman. I would say that it would give us the opportunity of understanding the nature of the problems far better than the Report itself. We each have the opportunity and have the right to speak to the Ombudsman and to deal with him as we see fit in asking him about his responsibilities without in any way dealing on any particular item and there's certainly nothing that would suggest in the past performance that there should not be consideration, very serious consideration for reconsideration on his part. But that is a decision that the Committee itself will determine.

But it would appear to me, Mr. Speaker, that as government becomes more and more involved in our lives; as government activities become more involved; as the nature of the requests for assistance and help of individuals who in their association with government find difficulty and want the opportunity for someone to be able to protect their interests, that it would appear to me that there should be the opportunity for the Ombudsman to bring forward that recommendation. --(Interjection)-- Now the honourable member says an amendment can be brought to the Act --(Interjection)-- Yes, I have that right. You know, if the honourable member wants to speak he can certainly stand up and speak. Nothing has ever stopped him before and I don't think it should stop him now. --(Interjection)-- Well, I don't think it's improper, Mr. Speaker.

MR. SPEAKER: The Honourable House Leader.



## COMMITTEE RE OMBUDSMAN

MR. GREEN: Mr. Speaker, I think that the honourable member has been given a certain amount of leeway. But the Minister of Labour is quite correct. The terms of the statute give what that committee is supposed to discuss. I would think that if the honourable member was making a general speech we wouldn't be able to stop him. But if he's suggesting that the committee consider something, which I don't think the statute permits, then the committee would be going beyond its terms of reference. Now that doesn't mean that the honourable member couldn't discuss this issue. But the Minister of Labour, although he's been making the point from where he is, I would think that he is quite correct.

MR. SPEAKER: The Honourable Member for River Heights.

MR. SPIVAK: Mr. Speaker, on the point of order. I would assume that the committee has the right to call the Ombudsman before it and to speak with him, Mr. Speaker, in determining whether he reconsidered. I believe that one of the questions they should --(Interjection)-- Well, we're discussing the creation of a committee that will deal with the reappointment or the appointment of a new Ombudsman. And we are discussing . . .

MR. PAULLEY: Mr. Speaker, if I may on a point of order.

MR. SPEAKER: The Honourable Minister of Labour.

MR. PAULLEY: On a point of order. The resolution is clear. The only terms of reference insofar as the resolution is concerned is a Committee of this House to consider the appointment of an Ombudsman and that is what the resolution is and that can obviously be in accordance with The Ombudsman Act, a reappointment of the present Ombudsman for one more term. The terms of reference in this resolution do not give the committee the license to consider anything other than that. And I in all due respect to my learned friend say that the question that he raises is a subject matter of a separate resolution that my honourable friend has the right to introduce. So on a point of order I think that he is not discussing the contents of the resolution.

MR. SPEAKER: The point is well taken. The Honourable Member for River Heights.

MR. SPIVAK: Mr. Speaker, on the point of order. May I suggest with all due respect to the Honourable Minister of Labour, that the resolution deals with Section 2(2) of The Ombudsman Act in which the committee has the right to consider the names of individuals or the reappointment of the present Ombudsman, and they in turn will make that recommendation. The considerations of the Committee, the manner of their deliberations is something that will be subject to the Committee itself deciding as to how they'll determine.

Well, Mr. Speaker, I would like to if I may, dealing with the point of order, indicate that the Committee would have the right to speak to the individuals if they so desired; they would have a right not to speak to anyone and just deal with it in a written presentation. They may make a decision that they're only going to deal with the consideration of a reappointment and that within itself. The committee itself will be subject to its own decision-making with respect to how it deals.

MR. SPEAKER: Order please. On that particular point of order the terms are very clear and they are in the resolution. All they can deal with is the reappointment or an appointment and nothing further. Would the honourable gentleman continue his debate on those lines?

MR. SPIVAK: No, Mr. Speaker. Section 2 said - and I want to for the benefit of the Minister of Labour to indicate: "Where the office of the Ombudsman is vacant the assembly" - and it will be vacant by March 1st - "The assembly shall by resolution appoint a Special Committee of seven members of the assembly to consider persons suitable." The manner of consideration is simply that of the committee.

MR. GREEN: Mr. Speaker, you've already ruled but I really would like to try to help my honourable friend. In his remarks he was suggesting that the Committee should consider whether the Ombudsman should be required to come before a Legislative Committee. Now that might be a perfectly good argument to make but not on this resolution motion. That's all.

## COMMITTEE-RE OMBUDSMAN

MR. SPEAKER: The Honourable Member for River Heights.

MR. SPIVAK: I think I can make that point and then complete it. --(Interjection)-- No, I would suggest that the Committee in its consideration of the reinstatement of the present Ombudsman should meet with him, which they have the right to do, and should ask whether he desires or wishes as a matter of his experience in the past few years to . . .

MR. SPEAKER: Order please. Order please.

QUESTION put MOTION carried.

MR. SPEAKER: The Honourable House Leader.

MR. GREEN: Mr. Speaker, I would like you to call Bill No. 17.

MR. SPEAKER: On the proposed motion of the Honourable Minister of Tourism and Recreation, the Honourable Member for Roblin.

MR. McKENZIE: Mr. Speaker, I beg the indulgence of the House to have the matter stand. (Agreed)

MR. SPEAKER: The Honourable House Leader.

MR. GREEN: Bill No. 18, Mr. Speaker.

MR. SPEAKER: On the proposed motion of the Honourable Minister of Mines. The Honourable Member for Arthur.

MR. J. DOUGLAS WATT (Arthur): Could I have the indulgence to have the matter stand? (Agreed)

MR. GREEN: Bill No. 19, Mr. Speaker.

MR. SPEAKER: On the proposed motion of the Honourable Minister of Consumer, Corporate and Internal Services, the Honourable Member for St. Matthews.

BILL NO. 19 - THE RENT STABILIZATION ACT

MR. WALLY JOHANNSON (St. Matthews): Mr. Speaker, I don't intend to talk at any length on this bill. I really have very little enthusiasm for this Act. Unlike on other occasions I can generate very little enthusiasm for this particular Act. That's perhaps understandable. In a system of responsible government the members of the government vary in their degree of enthusiasms for a particular measure that may be proposed to the House. But when you have a majority decision of caucus you proceed to stand behind that decision. --(Interjection)-- Sometimes. I, of course, intend to support the bill; I intend to vote for it and send it on to committee.

Now the reason that I have no great enthusiasm for the bill is that I never have been one who has been gratefully enamoured of government's regulation and the effects of it. Honourable members if they think otherwise should think back --(Interjection)-- yes, I am a socialist. I believe not in regulation of the housing market, not in regulation of the private operators within the market but if the private operators are not operating the market to my satisfaction I believe that the public has an obligation to intervene.

Now one of the members of our caucus has made the argument better than I could possibly make it on this question. That is that if you have a ten percent vacancy factor in the rental market you don't need rent controls. You don't need rent controls because the market will regulate itself. If you have a zero percent vacancy factor then rent controls really don't work very well and they have a marginal effect, I think.

Now this is not my particular argument but I agree with the argument so I'm making it. The government in my view would never have introduced this bill had it not been for the anti-inflation program. One can never be absolutely certain about these things but in my view it would never have been introduced except for the anti-inflation program. The Rent Stabilization Act that we have introduced is basically a means of provincial co-operation with the Federal Anti-Inflation Program. The provinces were all requested by the Federal Government to co-operate in this respect and they all are co-operating in this respect.

I also am no great enthusiast for the anti-inflation program. Again our caucus probably has varying degrees of enthusiasm on this particular topic and I am one of those who has very little enthusiasms for the anti-inflation program. I don't think that it

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(MR. JOHANNSON cont'd) . . . . will work. I tend to agree with the opinion of Professor Jack Weldon of McGill who stated that if the United States has a wage and price control system Canada doesn't need it. If it doesn't have an anti-inflation program then it won't work here. In a continental economy, in the context in which Canada operates, I think he's basically correct. I don't think that the anti-inflation program really will work.

It's interesting, Mr. Speaker, when you look back at history. There have been various attempts at wage and price control in the history of the world and one of the early experiences was the Statute of Labour in England in 1351. This occurred over 600 years ago. This followed upon --(Interjection)-- Oh, yes, you're correct, too. You're correct too. But you make that speech and I'll make this one. I'm always accused, Mr. Speaker, of going back in history and the honourable member can go farther back than I can. He's older, yes.

But this particular attempt followed upon the Black Death, the bubonic plague in England. A large part of the peasantry and the labouring class was wiped out by the bubonic plague. There was a shortage of labour and the labourers being good free enterprisers, because there was a shortage of labour, wanted more money for their labour. They wanted more money for their labour and, Mr. Speaker, in very many cases they succeeded in getting that higher price for their labour. So the land owners and the employers being intelligent men and powerful, went to Parliament which of course they controlled and passed a statute forbidding the workers to ask for higher wages and also, Mr. Speaker, demanding that they stay at the same jobs that they held six years before this.

Now, Mr. Speaker, this was carried out by a government of the aristocracy, carried out by a government in which the King had great power. In those days the monarchy was a good deal different than it is today. It wielded real power. So wage and price controls were implemented. Not only were workers' wages controlled but the prices of food and beer were controlled. This isn't being done today. Prices charged by self-employed artisans of contractors were frozen. Not merely this, Mr. Speaker, not merely was this done but any profit or any wages above those earned six years previous were taxed away completely. There was a hundred percent surcharge, a hundred percent surcharge on excessive wages and excessive prices. This was a very thorough-going system of wage and price controls, Mr. Speaker. It was enforced with a good deal more severity than the present system is being enforced. It was enforced with imprisonment; it was enforced with branding on the forehead with a hot iron.

You know, Mr. Speaker, even with that kind of enforcement, even with that kind of enforcement it didn't work. It did not work. Even in an economy that was largely self-contained - and Britain at that time had very little export trade - even an economy that was largely self-contained unlike ours, it still didn't work. Because the employees, the workers, were in short supply; they still insisted on demanding more in wages because they couldn't exist on the old wages. Prices had gone up. They would have starved on the old wages. So they demanded more and in many cases the land owners, the merchants paid more. So even that very early experiment with wage and price controls, Mr. Speaker, did not work.

Mr. Speaker, one thing that the Provincial Government can control is rents. The buildings are here; the apartment blocks are here; the houses are here; they can't be moved away. So the rents can be controlled physically because the supply can be controlled. It is here. It can't be moved away, at least not without a great deal of trouble. So this can be controlled. But even so I don't think that it is a terribly effective solution to housing problems and I don't particularly like the equity of it. I don't like the equity, the lack of equity in the guidelines program, the anti-inflation program. I don't particularly like the equity in the Rent Stabilization program. But it is an effort to co-operate with the Federal Government and while that co-operation continues - and we have stated that we will co-operate with the Federal Government on a conditional basis for at least the next year - while that effort of co-operation

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(MR. JOHANNSON cont'd) . . . . continues we will have to proceed with the bill.

Now I'd like to deal with a couple of criticisms that have been made of the bill - not in any great detail I'd just like to touch on them. Some members have criticized the lack of justification for the ceiling of ten percent that has been set on rent increases. Basically there is some logic in that criticism, I think. But the problem with it is that it can equally be applied against the entire guidelines program. There is no essential logic in the application of the guidelines program to the workers of this country.

The guidelines program, when it is applied to a worker in a particular industry, doesn't take into account his costs, his costs of living essentially. His costs of living may be well above the guidelines limit and in many cases they will be. So there's no question of equity there. The Federal Government has described it as very rough justice, and I think that's all you can say about this particular bill also, that it's very rough justice at best.

The Leader of the Opposition concentrated at some length on the long-term effects on the housing market of rent control and I would tend to agree pretty largely with what he said. But the only problem is it doesn't apply in this case because we're not applying rent stabilization for any length of time. We are applying it for the period of the Guidelines Program. I would think it might even be for a shorter term than that if the Federal Guidelines Program does not prove to be equitable and effective in our judgment. So the criticisms that were made of the long-term effects of rent control don't really apply in this case.

The third criticism that was made was the point made about the negative effect on new rental construction. Again this is largely setting up a straw man and destroying a straw man because apartments aren't being built now; they weren't being built in the last couple of years, and the reason they weren't being built was not because of rent controls but because the people who would ordinarily be constructing those apartments couldn't be guaranteed profitable returns through construction. And therefore they weren't being built. I don't see there's anything wrong with that, that is the logic of the marketplace.

The B.C. Study that was done for the B.C. Government points out that across Canada rental construction started to decline around 1971, not merely in Manitoba, in B.C., across the country, when there was no rent controls. And the reason was that the cost of construction, the cost of interest, the cost of land, the cost of construction itself had increased greatly, also the Federal Government of course had changed the tax laws which made it very very --(Interjection)-- Yes very very different. For example, doctors. Doctors formerly could buy an apartment block and apply the depreciation from that apartment block to his income as a doctor. Now that particular provision was wiped out of the Federal Income Tax laws, and that changed the game very drastically. It meant that a lot of doctors and a lot of lawyers were not investing in apartment blocks. They're paying income tax instead. That's an admirable thing in some respects. They're paying income tax instead.

So apartment construction, rental construction had declined long long before, long long before rent control was even proposed and I wouldn't favour incentives like the Honourable Member for Fort Rouge seems to favour. I'm not going to give gifts of money to some entrepreneur to build apartment blocks so he can realize capital gains while I'm taxing my taxpayers in St. Matthews and the rest of the province for the benefit of that particular entrepreneur. I'm not going to subsidize profits by men who should be providing their own capital if they want to make profits. And we are doing the logical thing, if the private sector will not invest, the public will, and we will continue to do so, and that is the only logical method of really attacking the problem of housing supply shortage.

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MR. SPEAKER: The Honourable Member for Portage la Prairie.

MR. GORDON E. JOHNSTON (Portage la Prairie): Mr. Speaker, I feel compelled to join the debate on the Rent Stabilization Bill after hearing the anguish of the Member for St. Matthews because he really does find himself in a difficult position. It seems to me the whole thrust of his remarks was that he didn't really like the bill because it was placing restrictions on many people and this was one of the reasons, I gather, that he's against the bill in his heart. But I can recall a few years ago when the same member made a speech in the House where he advocated total confiscation of estates of deceased people, so that the money could be redistributed in that manner. So I find it rather difficult, I find it rather difficult to appreciate his 180 degree turn.

MR. SPEAKER: Order please. The Honourable Member for St. Matthews.

MR. JOHANNSON: A point of privilege. The honourable member has misquoted me as the members of the Liberal caucus have done for the last five years. I did not advocate confiscation of estates; I advocated a rate of taxation on estates that was virtually confiscatory.

MR. SPEAKER: The Honourable Member for Portage la Prairie. Order, please. Order, please.

MR. G. JOHNSTON: Well, Mr. Speaker, I apologize for misrepresenting the member. But to be a little bit more serious, Mr. Speaker, to take a few of the arguments that the member has presented about the whole Anti-Inflation Program. And he said, and he's quoted Jack Weldon, I believe, a well-known economist, that if United States doesn't take a certain action, or does take a certain action, then there's no need in Canada to take the action if the U.S. does. I might remind my honourable friend that in the past two years in the United States the cost of living has been lower, rents have been lower, wages have been lower, and productivity has been higher. Inflation in Canada has been much higher in the last two years than it has in the United States. So I would think it would behoove Canadian authorities in Ottawa to not just go by the big brother to the south but to see what we can do to become more competitive with them and indeed, with other trading nations of the world. So I think that that should be thought about.

Now when we examine recent history of the problems that face Canada, in the last Federal election it seems to me that there were two or three positions put forward. The Conservative position was, I believe, and I stand to be corrected, is that they proposed a 90-day freeze to give them time if they formed a government to devise measures, and they didn't elaborate on what the measures were. So they asked for a 90-day freeze to give necessary time for their planners and their cabinet to come up with some sort of a program. But to this day I don't think many people in Canada know what that program would have been.

Now when the Liberals got back into power, when the Liberals got back into power, John Turner made a valiant effort to try and get various groups of society, namely, big business, the unions, and the provincial governments, to talk about the problem and to apply voluntary restraint - I suppose that's called jaw boning - but it didn't work, it didn't work. Turner and the people who were helping him went across the country, talked to every provincial government, they talked to the big unions, they talked to big business, they laid out the facts as they saw them, and nothing happened. Everybody said, well we're not going to help you with the problem; that's your problem, we have our own interests, and that's it. So now two years later, and the inflationary problem in Canada is bad, interest rates are rising, inflation is very bad, so something has to be done.

Now I'm not wholly sold on the anti-inflationary measures that are being tried and there's some things I don't like but I think the effort has to be made. It's true we're not in a wartime situation but we're in an economic war with trading nations of the world, and if we can't compete with our raw materials and our manufactured products with others in the world then we're in a pretty tough situation. When the government of Western Germany can come up with a tough anti-inflation program and make it stick with the business leaders and make it stick with union leaders, then surely we can do something too.

So to say that we don't like it because it's restrictive or we don't like it because it may not work, parts of it may fail, I don't think that's good enough, that we must try.

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(MR. G. JOHNSTON cont'd) . . . . And I give your Premier credit for going against his own party when he said, "I'm willing to try; I have reservations but I'm willing to try." --(Interjections)-- Well I read and saw some of your convention on television and my look at that convention was that he was going against his party when he was proposing to go along with the Federal Government guidelines.

So when we talk now about the Rent Stabilization Bill, when it was first proposed in the House I think we said that we agreed with certain changes that were made. The Conservative Party was in agreement, although there were some elements that they wanted to have changed. The government got general agreement in principle on the bill. But the problems are still there and I'm surprised when the Member for St. Matthews rose to-night - I thought after holding the bill for nearly a week in his name despite the plea of the Minister that he hoped for a rapid passage at Second Reading so that it could go to committee and hopefully it could become law around the 1st of April, I thought the Member for St. Matthews was going to tell us that the government had certain amendments ready to make the bill more palatable and more fair. I'm surprised that he said nothing whatsoever in a constructive way that he thought the government should be trying to do to make the bill more workable and more reasonable.

For example, I have several letters before me from people who I would classify as small businessmen. They have a small block or they're heavily mortgaged to get a rental property; they made the purchase after July 1st of last year; they made the purchase based on the facts and figures that there was so much rental income, taxes were so much, heating and repairs were so much, and they signed an agreement of sale and bought the building. Now we find when we examine the legislation that there's going to be a rollback and there's going to be no appeal; there's going to be no appeal whatsoever. Well, Mr. Speaker, we've heard much about rough justice. There's not even an element of rough justice to those people. So maybe there's only five or ten or twenty in the whole province, but there's no need whatsoever to draft a bill that is going to hurt individuals when there's no need to do it, and I say that this should be changed, and it should be changed by the government standing up and saying that they're going to make these amendments because out in the country today and in the last week there's many many worried people. They're worried, they're consulting lawyers right now to see if they can get out of the deal that they made last August or September. And by the way we urged upon the government at that time to call the session in the fall so there would be less time for confusion, the people would know where they stood. But in the government's wisdom they didn't do that.

So I'm saying if the government is not going to do anything about it, we intend to propose amendments in committee that will correct this injustice in the legislation, that there will be an appeal. There will be an appeal for these people to be able to come before a board and say, "Look here's our figures, here's what happened to us, we ask your consideration." But presently they can't do that. They can't do that. Talk about harsh and restrictive law making, this is pretty tough. So we intend to bring in amendments to try and correct that.

Another thing that we don't like is that in the Rent Stabilization Board itself they will be reporting to the Minister, no one else; they don't have to make an annual report; they don't have to publish an annual report, and perhaps if they did it would help the Member for St. Matthews because he could see what the percentage of apartment vacancies were and house construction was. He could see where there was a need for allowing a decent profit instead of making it a straight ten percent, or whatever the figure is, from one municipality to another. There would be room for the one municipality that had higher taxes, to pass through the higher taxes. A fixed rate will not take into account a heavy increase in utilities or a heavy increase in taxes, and this is on everybody's mind right now. The private home owner and the apartment block owner, whether he be a big business person or a small business person, an injustice is here and it should be examined by the government. When it comes into committee if the government doesn't intend to do anything about it themselves well we hope that our amendments will be considered. For example, has the government, in the case where an apartment block has changed hands

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(MR. G. JOHNSTON cont'd) . . . . since last July 1st until now, has the government considered whether or not the new owner has the legal right to take lawsuit to break the contract. Also the Minister for Consumer and Corporate Affairs, I hope he can answer this question because this is part of his departmental business as to whether or not people will be allowed to go to court and use the backing of the province to get out of what becomes to them a bad deal and the bad deal was made through retroactive legislation.

Now lest it be thought that I'm defending all and any landlords, I'm not. I'm trying to be fair. Sure there's a hundred times more tenants than there are landlords but the Minister has the opportunity here to bring in an important piece of legislation, and he has the time to study all facets of it, and surely after having this that he'll see that the bill is not fair to everyone in the province.

MR. SPEAKER: The Honourable Member for Lakeside.

MR. ENNS: Well, Mr. Speaker, I just have a very few comments to add to the constraints of this bill. Some of them are to some extent in tribute to the Honourable Member from St. Matthews who has demonstrated over the past period of time, you know, preparedness to speak out relatively independently on many issues. He has shown a preparedness to take on Deputy Ministers, Ministers indeed, and has done it always in a way that doesn't belie his deep, I'm sure, and abiding affiliation with a party that he's proud to represent. And I say this not facetiously. I say that the Honourable Member for St. Matthews probably has, in the position that he occupies as a backbencher, made significant contributions to debates in this House. We rarely question when he rises in this Chamber whether or not it is a planted question, one that has been, you know, sorted out with the Minister before he asks the question. When he asks a question it's usually, you know, it usually gets the Minister of some department right about here between the fourth and fifth ribs.

What he, of course, also has done is indicate the dilemma that all of us face in this Chamber, he has in tandem supported the comments of my Acting Leader when he spoke on this same bill. My Acting Leader, the Member for Riel, indicated --(Interjection)-- the Leader of the Opposition. I accept that correction. The Leader of the Opposition pointed out very accurately, and documented very accurately, the many reasons why we should have grave misgivings about the passing of this bill in this Chamber. And it is somewhat comforting to have those same misgivings supported from a member of the government. So, Mr. Speaker, let it be understood that we all don't see in this bill that saving grace is going to solve our housing problem, it is going to solve our accommodation problem in this province. What we recognize, Mr. Speaker, is that having embraced the policy of restraint, and I might remind you, Mr. Speaker, and I might remind all members opposite - the only person perhaps opposite that I don't have to remind is the First Minister because he was among the first to recognize it - when my former National Leader first proposed it (I'm now referring to the Honourable Robert Stanfield) when he first proposed a program of restraint, which of course my Liberal colleagues scoffed at and laughed at and fought an election hypocritically against, hypocritically against, but the First Minister of this province recognized it and had enough gumption to stand up and recognize, not that that was the program to answer all problems, all problems, but it was probably the right technique, probably the right measure to break the expectation of inflation in this country, the psychology of inflation in this country. Mr. Speaker, that is probably what we are trying to do in the support of this bill.

Mr. Speaker, I am very happy to acknowledge the reluctance, the kind of support for this bill the Member for St. Matthews indicated with respect to this bill. It mirrors our own reluctance in support of this bill. We, Mr. Speaker, say that there is no way for instance that we could having publically endorsed the Anti-Inflation Program, which places restraints on the wages of labours, and the working people of this province, and this country, that hopefully is going to place restraints on the prices charged by companies and businesses in this country, that we could leave out such an important item as shelter, as shelter out of this program. Mr. Speaker, you know I am happy that at least in this debate there has not been, you know, the kind of charges that could have been made against those of us who espouse the freer market system that say that we have been

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(MR. ENNS cont'd) . . . . hypocritical in our position in our passive support of this bill.

I say, Mr. Speaker, that we have all attempted to act reasonably responsible in tune with the genuine problems that this country and province faces, recognizing, those of us who have done our homework, and I don't propose myself to be one of them, but I recognize the Member for St. Matthews as having been one of them, and I recognize my Leader of the Opposition as being one of them, that have read the reports, that have read the results, and that have documented some of those results in this Chamber. We have grave misgivings about the long term effects of this kind of a measure in terms of the overall problem, in terms of solving the overall problem of housing, and housing accommodation at the least possible cost to our citizens, but, Mr. Speaker, we have adopted in this country, officially by the government of this country, and endorsed with some reservations by the Official Opposition of this country, that position has been substantiated by the First Minister of this province, and endorsed by the Official Opposition of this province. We do not see it as a cure-all for all problems in housing, but we do not at the same time see it as being inconsistent with our overall support for a restraint program. Mr. Speaker, those were the sentiments and those were the feelings that were expressed by the Leader of the Opposition when he spoke on this bill, and I am pleased to note that it's with a similar degree of reluctance that members opposite are putting forward this bill. Thank you.

MR. SPEAKER: The Honourable Member for River Heights.

MR. SPIVAK: Mr. Speaker, it would seem to me in both listening and reading the debate, that members that have spoken have various reasons for supporting the bill. There is really no consistency, and I don't think that should be expected, and I don't think it should be necessarily expected even on the other side. Albeit in caucus the discussions take place and then they are determined and the government stands and the position is presented. --(Interjection)-- Yes that is how it is supposed to work, with the exception of a few open caucus meetings we have had in this Chamber in the last little while.

However, having said that, Mr. Speaker, I think that in dealing with the bill we deal with it at a time when we deal with the total inflationary program of the federal and provincial governments, and it has to be viewed from that perspective. Secondly, it has to be viewed from the perspective of the need for shelter in this province and requirements and how they are being met and the direct effect that it will have. That's really what the Honourable Member for St. Matthews was saying to a certain extent at the end, and he gave a very simplistic solution to it. I would like to deal if I may in a more direct way with that, and then deal with the Anti-Inflationary program and then the bill itself.

Mr. Speaker, we have had a debate with respect to the Manitoba Housing and Renewal Corporation, and it's not completed but of necessity it becomes very much a part of the determination of whether the action in this bill as it is proposed and its open ended feature, notwithstanding the declarations of the Minister, but its open ended features will in fact have a very bad effect on the future shelter construction in this province, to a point where what we believe to be only temporary may become very much of a permanent kind of solution to our problems.

Mr. Speaker, I think that we can say that we accept that shelter and housing is a basic social right, and I think we have suggested that somehow or other we are coming to grips as best we can with our housing problems, and that we're trying to do it as comprehensively and sensibly as we can, and the rent control bill at this time is consistent with that. But I have to say to you, Mr. Speaker, that I don't believe that that comprehensive and systematic presentation, or presentation dealing with the systematic approach, has ever been made in this House by the government. I don't believe that at this point they are in a position to do that because I do not believe that their planning and research has determined how many housing units we have to build to provide shelter, how many we have to rehabilitate, how many apartment buildings must be built to meet our needs in this province, and I believe as well that the targets that have to be reached have not been set - they have been talked about in general terms - and our difficulty at this point is that in dealing with this particular Act, we deal with it in complete isolation of the total



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(MR. SPIVAK cont'd) . . . . . needs and total requirements for shelter in the province, and in an attempt to try and complement the Federal Government's program, and it has to be complemented, I am not in any way suggesting that it hasn't, but with real dangers for the future, and without any direct information of what government policy will be.

Now I admit that the Minister has not, the Minister in charge of Housing and Renewal Corporation, the MHRC, has not given the complete program yet because he is still in the process of being examined, but, Mr. Speaker, I have to say to you that I don't think that we know where we are really going, or what our requirements really will be. We know that the objective of the Manitoba Housing and Renewal Corporation, as stated several years ago, that so many units were to be built, I believe it is 21,700, if I am correct, was by 1975, 12,000 short; 21,800 housing units that was the target the MHRC set for itself for 1975 and it only reached 9,000. Mr. Speaker, then someone had to make up the slack and then we would examine the private sector, and I think one can say that the private sector - and that's one of the reasons for the furthering of the MHRC program - has not been meeting it.

Mr. Speaker, I have yet to hear in this House anyone tell us how many shelter, rental accommodation requirements are needed for this year, and who is going to build them. And I would like the Minister for Consumer Affairs in his summation of this bill, to indicate exactly how many have to be built. Somebody must make some projections, and I would like to be able to see how his figures compare with CMHC's requirements, and I would like to see what the predictions are for this year of CMHC with respect to what will take place, both in the private and public sector. I believe if we were to examine that we would find that we are in serious difficulty now, and we are going to be in a much more serious situation in the months ahead. So the bill that is being proposed, and the manner of proposal, and the open-ended feature of the bill are things that must be seriously considered with respect to the shelter requirements in this province.

Mr. Speaker, the Anti-Inflation Program has to be supported and to go on to the debate of whether Mr. Stanfield was right or Mr. Trudeau is wrong is absolutely non-productive at this time. You cannot examine or look at what's happening in this country without being concerned, and without recognizing that action is required, and the fact that along with price and income control - and there are lots of adjustments that should be made in corrections of that - that it is a necessity for there to be control with respect to shelter, there is no question. But there are some problems with the bill, and I think we have to consider them.

Now one deals with a very fundamental problem of government, and one which every legislator has to concern himself when he is faced with that situation. We know that government has power to do almost anything, and we know that that power can be used and abused. We have seen recently in demonstration in Ottawa, not in the exercise of of the particular legislative power but the exercise of the power of the head of government an intention to essentially break what people thought was a tradition of parliament, by refusing to accept a particular resignation. And we know that that power is supreme and it can be done, and there is very little that people can do except use the tactics that are available to them within the parliamentary system.

But when we deal with retroactive legislation, Mr. Speaker, we deal with the power the government has to set back to a date in the past a law, and suggest that it was in existence as of that time, and that is a power that has to be examined very carefully and it is one that everyone has to be concerned about. Now retroactive legislation in the actual Act before parliament or before the House, the Legislative House, is not unusual, when it refers to a declared government policy made at a particular date, known to be the policy, and known to be the policy to be enacted in the future at the sittings of the House, and to be made retroactive to the date of the announcement. It's common for tax laws and tax changes to be made at budget time, and for reference to indicate immediately that it will be applied or will become the law as of that night, and that one knows that after a period of time the government will enact legislation making it retroactive to the date of public announcement. This is the common use of retroactive legislation. But when retroactive legislation, Mr. Speaker, deals with periods of time that were back

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(MR. SPIVAK cont'd) . . . . further than the announced intention of the government, then I think, Mr. Speaker, we have to be concerned about this extraordinary use of the power that government has.

Now, Mr. Speaker, I think it is fair to say that at the time that the Prime Minister announced the Guidelines Program with respect to his Anti-Inflation Program, the suggestion was that the provincial governments should and complement that with the actions that they would have to undertake to be able to see to it that the program was a comprehensive one for Canada, and the assumptions then existed, and I think I am fair to say that to that, that the government would in fact at its sitting of the session introduce legislation which would make it retroactive to the date of the announcement of the Prime Minister of the Guidelines Program. And there is no reason that I am aware of to believe that the date that was finally placed on this bill - and I know the reasons and motivations for that; I'm going to come back to that in a moment - that the date that was used on the bill was ever referred to publicly by the Minister involved, or by the First Minister. As a matter of fact, I think it could be suggested that they tacitly approved the October 14th date because of the references that were constantly made in the paper and in summaries of statements they made which indicated that that would be the date upon which this would take place.

Now it doesn't follow that it has to be, Mr. Speaker, and if the government's decision was that it wasn't supposed to be, there was an obligation and an onus on them to declare right then that the legislation to be introduced would be retroactive to the day that they would decide. And there is nothing wrong with them saying that if that had been declared at that time. We argue that it is better to have brought forward the legislation immediately - and that's what the Honourable Member from Portage said - but having declared the policy with knowledge of their position, then, Mr. Speaker, I don't think there is a question that the public would know, those who are both landlords and tenants would know, and the legislation that would be introduced would refer back to the policy that was declared --(Interjection)-- No?

MR. GREEN: Would the honourable member permit a question?

MR. SPIVAK: Yes.

MR. GREEN: What difference would it make to somebody who had acted on July 15th that on December 1st when you announced your legislation, you say you are going back to July 1st.

MR. SPIVAK: Mr. Speaker, I would assume that leases and transactions between landlords and tenants took place after October 14th day after day, and I think that a great deal --(Interjection)-- Well, Mr. Speaker, a great deal of, you know, a number of transactions took place on certain assumptions. Mr. Speaker, it has nothing to do now with the principle of this bill. It has to do with the power of legislation and the power that government has, and the reality, Mr. Speaker, that retroactive legislation should not in itself be supported as a matter of principle. Because, Mr. Speaker, it should be supported if the declared policy is known or if something of such an unusual nature arises where the government and the members of the Legislature must act.

MR. SPEAKER: The Honourable Minister of Mines.

MR. GREEN: Am I correct in my thinking that the Ontario legislation was retroactive to before the government was elected.

MR. SPEAKER: The Honourable Member for River Heights.

MR. SPIVAK: Mr. Speaker, you know whatever happened in Ontario is not at this time my concern because you see, Mr. Speaker, it has nothing to do with precedent. It has nothing to do with the fact that other governments may have enacted it in different ways. Their motivations were different than the members opposite and frankly I'm not sure that we really know what their motivation is. I think their motivation could be, it could be argued that there are many reasons for the particular date that they chose. But that isn't the point. The point, Mr. Speaker, is that retroactive legislation is not something simply to be acquiesced in without some very important explanations.

Now having said that we then have the dilemma that the Honourable Minister has of trying to devise a program that would be equitable and fair and would be in line with the

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(MR. SPIVAK cont'd) . . . . announcements of the Federal Government and consistent with the attempt to control the inflationary spiral. The question, Mr. Speaker, is could that program be designed and can it still be designed around the original date, the date of the announcement? Mr. Speaker, I think it can and I think those are the kind of considerations that should be made in this House as a means for discussion and debate and for the consideration of the Minister. Because I think in the main, and I believe this to be true, what he's attempting to do is he's trying to fill the true meaning of that legislation and the purposes of that anti-inflationary program and there are problems. There are problems that people have in fact taken advantage of the increased costs and added on additional amounts in the requests the landlords have made of tenants in the October leasing of last year, before the program came through, and there in fact probably are incidents of excess. Those incidents of excess should in fact be corrected and the mechanism for that should be, in fact, resolved so that that could happen.

But it would seem to me that there are other considerations, Mr. Speaker. The kind of considerations that I would like to suggest to the Minister would alter the manner of the legislation by, in effect, setting the date retroactive as far as the bill is concerned, to the date of October 14, setting it to October 14, with the provision, Mr. Speaker, that any rental over and above for the previous year, over and above the percentage that was agreed, whatever that would be, which would be considered excess - it could be 15 percent, it could be whatever percentage was agreed at - would be automatically subject to a review by a review board or any tenant would have a right to be able to go to the review board and to see to it that a landlord would have to reduce his rent if in fact more than his initial costs were, in fact, realized and there was an abuse by the landlord. Mr. Speaker, doing that, then I believe that as of October 14th you could freeze the rentals for the year and apply the cost pass-through that the Honourable Minister has talked about for next year.

Now what I'm suggesting to the Honourable Minister opposite is that, in effect, it would appear to me that the principle of retroactivity in legislation should go back to the time of the announcement of the policy and not before; that in effect to protect those people who in fact received excessive increases of rental, there should be a review mechanism so, in effect, they can appeal and it should be automatic that the review board would deal with it whatever the percentage was that was agreed, of an increase over the previous year. I suggest that that could be 15 percent and that would be automatically considered as an excess and the landlord would have to prove that it wasn't and there would be some cases where I believe that they could in the nature of the rental accommodation. Because you know it's not all high-rise accommodation. In many cases it's individual single family dwellings and there could in fact have been a catch-up and there could have been some additional excessive costs. Mr. Speaker, you could freeze any rental after that until October of this coming year with the cost pass-through that the Honourable Minister has proposed to be able to apply in those cases.

MR. SPEAKER: The Honourable Minister of Consumer Affairs.

HON. IAN TURNBULL (Minister of Consumer, Corporate and Internal Services) (Osborne): Yes. I'd like to thank the member for submitting to a question. I was wondering if in proposing what he's proposing he realizes that changing the proposed legislation to what he's suggesting would merely cast up other anomalies and that no matter what date you set or what percentage you set, you will have anomalies on either side of those amounts and those dates.

MR. SPEAKER: The Honourable Member for River Heights.

MR. SPIVAK: Yes, Mr. Speaker. I have no doubt there will be a lot of anomalies and I don't think we're going to be able to solve all the problem situations. But I argue that the principle of retroactivity is one which has to be thoroughly examined. Government has a right to announce its policy and people have a right to know that policy. You have a right to come to the Legislature and simply say we want an enactment and we want it retroactive to the time we announced our policy. That's not what you've done here. What you've essentially done is made it retroactive to a date that never was considered. There have been rental increases I would think probably in most leases, that were due

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(MR. SPIVAK cont'd) . . . . for reconsideration by October 1st for a very good reason. Costs have gone up; taxation has gone up; fuel costs have gone up; interest costs have gone up; renovations cost more now than they did before. Labour has gone up. So that, in effect, there was no question that there would be rental increases.

What I'm saying is to try and comply with what really would be the normal function, then that proposal could achieve I think the desired objective and the course of doing that would at least be consistent with the way in which I believe government should act regardless of how they've acted in other areas.

Because, Mr. Speaker, I come back to something else. The Province of Ontario in its Legislature has the same power as the Province of Manitoba, as the Province of Saskatchewan. They can do all the things they want. If they have a majority they can do what they want and they'll go through their procedures and do it. They can feel that what they're doing is accomplishing a social objective and so what? We've accomplished that objective and so we've bent it a bit, but we don't have to feel uncomfortable about it.

But there is a danger in the precedents that are being set. And the honourable members opposite cannot be unaware of that. And that danger I think is worthy of at least debate and consideration in this House. I do not believe that this legislation should be passed without that debate taking place. I do not believe, Mr. Speaker, that it should be left untouched, because I believe it is a very fundamental principle. The suggestion I made is only one of a number of suggestions that could be made. But I would think that having suggested that those people who have been negotiating or arranging for themselves their new leases, will have completed that by October 1st, that the freeze in fact would be on after October 14th, and in effect you could then have your review board or your review officer examine all those that are considered to be excessive, and you could determine that by placing whatever percentage you decide should be placed, and with also the right on the part of a tenant if he believes it to be the case, whatever the increases made, to be able to go and have that review.

Now I think that that will create a number of problems for the people involved in the rent review procedure. And I think that that will cause some difficulties with them. But the fact that there may be some administrative difficulties and the fact that government will have a much more difficult time in trying to handle them; and the fact that there'll be a few more complaints in this procedure, doesn't in any way negate the suggestion, nor does it negate the argument with respect to retroactive legislation.

Now, Mr. Speaker, I'd like to talk if I can about the open-endedness of the legislation, because I think here we have --(Interjection)-- What? I'm entitled. Because here I think we have something that is not desirable. And I say that in all honesty to members opposite. Because I think that what would happen if they were in opposition and they were making the arguments against a piece of legislation - whatever the legislation would be - and there were open-ended legislation being proposed by the members on this side as government, they would argue that government should have to account, that there should be the opportunity for review, that no matter what happens conditions can change and if that power exists, that Cabinet can handle it, that in effect even though we could debate it under Estimates, even though we have a certain procedure in the House, the legislation should have to be enacted again, and at least further legislative authority should have to be enacted again.

It would seem to me, Mr. Speaker, that there should be serious consideration given by the Minister to put a time limit on this with a recognition that it will be necessary if conditions warrant - and I would hope that they don't, and I think that really is what we are trying to work towards in this country - but if conditions warranted that the legislation be continued that at the appropriate time the government would come back and would ask for that authority. And, Mr. Speaker, if the conditions warranted it, they would receive the support that they're receiving here, in a desire on the part of everyone to try and carry out the responsibilities that they have as members of the Legislature in the Province of Manitoba concerned with the state of the economy and the problems we have.

And so I would suggest to the honourable members opposite that consideration be given to the open-endedness of the legislation being altered and a time limit being put on

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(MR. SPIVAK cont'd) . . . . the legislation, and that could be three years, it could be two years. You know, I would hope that we're not talking about that length of time but we may be, but I believe in principle that's what should happen.

I believe that the date that has been set to which the legislation will be retroactive, will in fact cause severe hardship for a lot of people. Because, Mr. Speaker, in relation to the costs involved there were leases signed on September 30th and October 1st of 1974, due at the end of September in 1975, that would normally have to reflect the increased costs to the owner of fuel, of heating costs, taxation, and all the costs that are referred to.

There are many people, Mr. Speaker, who had adjustments in their mortgage interest rates, which is a common practice after five years on mortgages that are held by most people, or most investors, where adjustments will reflect the particular position of interest rates at that time. And, Mr. Speaker, these people have to make adjustments, and if they had to make the adjustments last year, along with the other costs, Mr. Speaker, their costs are much more than ten percent. And they are being legislated to lose money.

Now, Mr. Speaker, the people who we are talking about are not necessarily corporations who control hundreds of suites, or individuals that have 50 suites or 75 suites, we're talking about a lot of people whose whole savings, or whose whole savings have been put in rental accommodation, or in accommodation which they've been renting out, and who find themselves at this point in a position where they're going to have to apply a fair amount of their income this year to be able to continue to operate their investment. And that's not intended of the members opposite. I don't believe that that's really what they're intending at all. They know that these things exist. But the difficulty is, they're trying to find a vehicle where they can do it as easily as possible for the bureaucratic administration that the government has to be involved in and within the problems of timing, and at the same time hoping that these people will not be that dramatically affected.

But, Mr. Speaker, they will in many cases. Because one has to recognize that if we go back to October 1st in 1974, and realize the increases that took place in 1975, the substantial increases, the rate of inflation which had its direct effect on all the costs that make up the total of the expenses of those who hold investment income, that there is in fact serious difficulty for many. And that, in effect, there should be some consideration, Mr. Speaker, with respect to their position.

Now, Mr. Speaker, I'll conclude by simply saying this. I don't think that the government has presented any evidence which indicates that the kind of comprehensive approach to the question of shelter has really been undertaken by them. And they do not know, nor can they be sure, that what they are doing will not really have a much greater dramatic effect on the growth of shelter accommodation which is required for the people of this province. I think the sectors and the targets have not been set or established yet, and I think, Mr. Speaker, there is a serious problem with respect to that. And I think there is a danger, and the members opposite are going to hope that things will work out, but if it doesn't they're going to be faced with enormous public programs that will have to be undertaken to provide that shelter, and that mainly some may argue that's good, but it may not be good at that particular time, because I think that the balance between the private and public sector in the requirements for shelter and housing and rental units is needed in this province. And I don't think they're going to object to that statement.

I think, Mr. Speaker, as well that the problem of retroactivity is one that as legislators and parliamentarians, we cannot ignore and a declared policy - I'll be finished in one second, Mr. Speaker - and a declared policy of the government should have been declared earlier, and that there is a real obligation to see to it that it's referred back to, or at least it's made retroactive to the date of the announcement of the policy, and that in effect the program should be tailored to that.

I think that the date that's been set causes severe problems for many people, and some are going to be legislated into losing money by the legislation, and I don't think that really is the intention. And I don't think there's any way in the procedures that we have of protecting those people. I think the kind of proposal, or the variation of the kinds of proposal that I've talked about should be considered, and I would hope that in seeing to

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(MR. SPIVAK cont'd) . . . . it that this bill goes to Second Reading, that we deal with the amendments that may be introduced which would deal with the specifics of the bill, and there are other matters that can be dealt with at that time more appropriately in the committee. But I would hope that the government would reconsider its position, and reconsider as well the open-ended provisions, so that in effect there is a time limit with a recognition that if conditions remain, legislation will then have to be introduced at that time.

MR. SPEAKER: The Honourable Minister shall be closing debate if he takes the adjournment. The Honourable Member for Fort Garry.

MR. SHERMAN: I presume, Mr. Speaker, the Minister is rising simply to ask a question.

MR. TURNBULL: No.

MR. SHERMAN: No. Then, Mr. Speaker, I wish to move, seconded by the Honourable Member for Sturgeon Creek, . . .

MR. SPEAKER: Just a minute. Order please. The Honourable Member for River Heights still has ten minutes if he wishes to use it.

MR. SPIVAK: Mr. Speaker, I'm finished.

MR. SPEAKER: Thank you. The Honourable Member for Fort Garry.

MR. SHERMAN: Mr. Speaker, I move, seconded by the Honourable Member for Sturgeon Creek, that debate be adjourned.

MOTION presented and carried.

MR. SPEAKER: The hour of ten o'clock having arrived, the House is now adjourned and stands adjourned until 2:30 tomorrow afternoon. (Tuesday)