



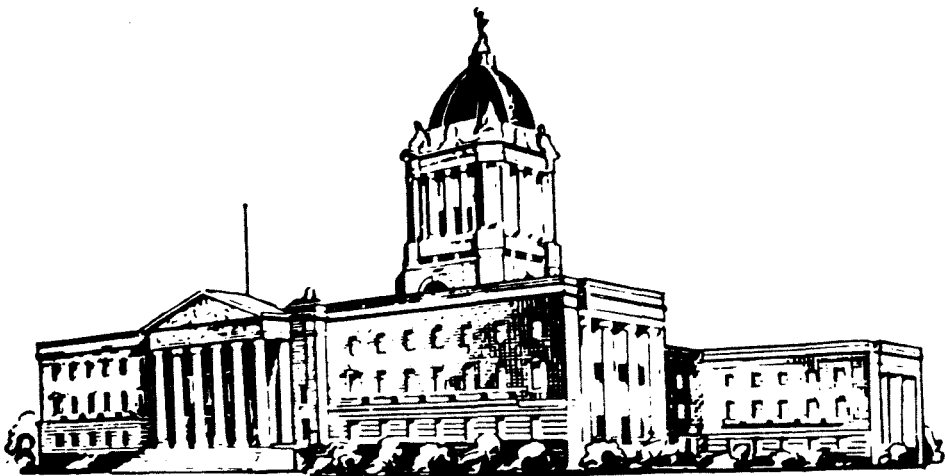
**Fourth Session — Thirty-First Legislature**  
of the  
**Legislative Assembly of Manitoba**  
**STANDING COMMITTEE**  
**ON**  
**LAW AMENDMENTS**

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**29 Elizabeth II**

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The Honourable Harry E. Graham  
Speaker*



**MONDAY, 14 JULY, 1980, 8:00 p.m.**

**MANITOBA LEGISLATIVE ASSEMBLY****Thirty - First Legislature****Members, Constituencies and Political Affiliation**

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

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

Time — 8:00 p.m.

**CHAIRMAN — Mr. Gary Filmon (River Heights)**

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

**MR. CHAIRMAN:** We will call the committee to order and we'll resume with Bill 78 at Page 3.

Mr. Mercier.

**HON. GERALD W.J. MERCIER (Osborne):** Mr. Chairman, on Page 3, Section 7, at 5:30 we were discussing the wording in Section 30(2). There is now in the process of being distributed an amendment which will clearly outline the distribution of the sale proceeds, firstly, to the judgment debtor in an amount not exceeding the amount of the exemption; secondly, to the judgment creditor in satisfaction of the amount of the judgment plus costs; and thirdly, if there is any surplus remaining to the judgment debtor. I think that clarifies the concern.

**MR. CHAIRMAN:** Would somebody move that amendment, please?

Mr. Driedger.

**MR. ALBERT DRIEDGER (Emerson):** Mr. Chairman, I move that the proposed subsection 30(2) of The Executions Act as set out in Section 7 of Bill 78 be amended by striking out all the words therein after the word "exempt" in the 6th line thereof and substituting therefor the following words:

"That any amount realized on the sale of the chattel shall be paid and applied as follows:

- (a) Firstly to the judgment debtor in an amount not exceeding the amount of the exemption;
- (b) Secondly to the judgment creditor in satisfaction of the amount of the judgment plus costs; and
- (c) Thirdly, if there is any surplus remaining to the judgment debtor.

**MR. CHAIRMAN:** Is that amendment agreeable? (Agreed) Page 3 as amended pass; Page 4 pass; Page 5 pass; Page 6 pass; Preamble pass; Title Page pass; Bill as amended be reported pass.

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

**MR. CHAIRMAN:** Bill No. 80. Page by page? Page 1 pass; Page 2 — Mr. Schroeder.

**MR. VIC SCHROEDER (Rossmere):** Yes, on Section 7, subsection (1), could the Minister advise

as to the priorities at this time with respect to wages?

**MR. MERCIER:** Mr. Chairman, the existing priority would be as a result of the B.C. Supreme Court case and the Quebec-Manitoba Court of Appeal case in which liens would have priority except over registered mortgages and, as has been indicated in discussion with a number of delegations, the provisions of this Act merely conform and confirm the existing priorities as established by the court cases.

**MR. CHAIRMAN:** Mr. Schroeder.

**MR. SCHROEDER:** Mr. Chairman, it would seem to me that it would be up to the Legislature to decide what the priorities should be and not up to the courts. The courts may have interpreted what the existing law is. I'm asking the Attorney-General what he believes the effect of this particular change will be and who exactly will be receiving priority as a result of this amendment.

**MR. MERCIER:** Mr. Chairman, Section 7(6) sets out the priorities as per the court cases.

**MR. SCHROEDER:** Mr. Chairman, we heard a submission the other day dealing with the sanctity of registrations and that sort of thing and it seems to me that this whole matter comes down to a question of who is to come first. Is it the lender of money or is it the person who works for wages?

This government clearly is saying that it wishes that the people who provide the capital should come before those who provide the labour. It seems to me to be an astounding proposition that the Attorney-General is giving to this committee, that just because a court has ruled that that is the effect of the existing law that somehow we must now pass a law to establish what already is the existing law. If that was the existing law, if that was what the county court or the Court of Appeal said is the law now, then surely the law now is clear and what we should be doing is determining whether we wish to leave it like that, in which case we don't need an amendment, or determining whether we want to change it to give working people a right ahead of mortgage companies, in which case we should be changing it and in which case Section 7(6) should not be included.

If the Attorney-General is saying that somehow the sanctity of registrations must be upheld, then I would suggest to him that he consider providing for the right of registrations of working people. Immediately on their starting any job, they can file a claim in the Land Titles Office or wherever the government feels would be appropriate to notify any subsequent lender that, in fact, John Smith has started to work at this place and he claims an equitable lien on the property of his employer on any winding-up because of the fact that he is an employee, that he wants his last several weeks or several months' pay on the

winding-up of that business. In that way, certainly the sanctity of registrations in our Land Titles Offices and elsewhere would be upheld, although I find that argument to be a bit of nonsense, because any mortgage lender who goes to a factory and takes a look at the building, the operation and the employees, knows full well that there are employees working in there. That should come as no surprise to anyone on a winding-up. There should be no surprise over the fact that there might be wages owing.

The other day when we had the Mortgage Lenders Association before this committee, we were told that they have absolutely not one single statistic to support their claim that somehow this might deter loans in this province. They had no statistics to indicate that the percentage of loan applications in this province approved by mortgage loan companies was lower than that in provinces where this type of attempted legislation was not in effect. So, I would suggest to the Attorney-General that he shouldn't be telling us that we are now passing legislation to confirm what courts are telling us. We are here to tell the courts what the law should be and they, of course, have the right to interpret what we have passed.

**MR. CHAIRMAN:** Mr. Schroeder, are you addressing Section 7(6)?

**A MEMBER:** 7(1).

**MR. CHAIRMAN:** Can we take a question on Page 2 then and go on to 7(6).

**MR. SCHROEDER:** Well, Mr. Chairman, Section 7(1) states specifically that it is subject to subsection 6 and 7. Now, just on that basis alone, we have to deal with Section 7(1) and if you would like to have a motion, I'd be prepared to move that we delete the words on the first line, "but subject to subsection 6 and 7".

**MR. CHAIRMAN:** Okay, all those in favour?

**MR. SCHROEDER:** Well, doesn't anybody want to talk on it?

**MR. CHAIRMAN:** All those in favour?

**A MEMBER:** There's none. No, they don't support him.

**MR. CHAIRMAN:** Is there anybody in favour of that amendment?

**MR. SCHROEDER:** Mr. Chairman, I've been asked to explain what the effect of this particular resolution would be. Section 7(1) states that "notwithstanding any other Act but subject to subsections 6 and 7, the amount of wages due and payable by an employer to an employee not exceeding 2,000 constitutes a lien, etc., which comes ahead of any other charge against the employer's property." The result of removing the words, "but subject to subsection 6 and 7", would be that in fact this lien would be a first charge ahead of real property mortgages and ahead of debentures and other securities and therefore I would hope that the committee, all of the members, would support this amendment.

**MR. CHAIRMAN:** All those in favour. Contrary.

**A MEMBER:** We want to speak to his amendment, we're not voting, we're putting our hands up to speak.

**MR. CHAIRMAN:** Mr. Cowan.

**MR. JAY COWAN (Churchill):** I did want to speak very briefly to the amendment because I think if I'm following the argument correctly, then there should be an insertion also and that's where the words that were taken out, "every mortgage or real or personal property", which were taken out of the second last line or the third last line, would then have to be reintroduced, would that be — after this has passed, okay. Very good then.

**MR. CHAIRMAN:** Okay. Mr. Corrin.

**MR. CORRIN:** I wanted to say, Mr. Chairman, that I am now convinced that the reason that there has been such a proliferation of union organization in this country, and presumably the reason that our friends opposite are so disgruntled and so upset about that state of affairs is of their own making. They, Mr. Chairman, if this is a concern on their part, is they have precipitated this particular situation. You know, there's a need for the government opposite, Mr. Chairman, to accept the fact that they have to protect ordinary people. They've been seemingly dogmatically opposed to any such efforts in the past three years, and this bill, Bill No. 80, again reflects that sort of disposition on their part.

This afternoon we heard from Mr. Coulter and Mr. Martin, that this bill is going to lead eventually and quite definitely to more difficult labour relations within our province. Mr. Martin indicated that it's quite possible that employers are going to be required to disclose their assets, their debts in order that before collective bargains are arranged, the union can establish whether or not there is a need for the provision of bonds by an employer, to guarantee the income that the government wishes to deprive the employees of. Mr. Martin indicated that it's a possibility that unions may even well ask and require that mortgages be pledged as security for wage losses that would be incipient on the enactment of this legislation.

So what we're doing, Mr. Chairman, this government's motivation to hearken back to the past and regress to the good old days of free enterprise, is simply creating the very situation that they wish and strive to remove themselves from. And that, Mr. Chairman, has to be the dramatic irony which underscores this entire situation.

I can't understand, Mr. Chairman, notwithstanding some of the recommendations of the much-hallowed and revered Law Reform Commission, I can't understand why workers' wages can't be given priority to the securities filed and registered by credit institutions. You know, Mr. Chairman, I presume that when a credit institution makes a loan, that they do so on the basis of a certain risk. They acknowledge the fact and presumably this is taken into account when they establish the terms of the loan, the interest rate and so, the repayment schedules, they acknowledge the fact that some loans are more risky

than others. Presumably they evaluate their position prior to entering into an engaging in a credit loan situation, and on that presumption, Mr. Chairman, on the presumption that people who do that are not idiots, have some concern for the viability and the continuing viability of their businesses. I don't see why it is necessary to give them, on top of their general security, to give them access to the worker's wages in this sort of priority. I just don't understand it. I don't see why the worker should be asked to engage in risk venture, because the only sort of "capital" that the working person has is his or her labour. I don't understand why they should be asked by the government to put that forward on a risk venture basis. That is the role of the financier. It seems to me, Mr. Chairman, that it's simply unjust to do this. We found out from Mr. Cvitkovitch on Saturday morning that many of the institutions he represents carry mortgage insurance. Not only do they have security, the security they take from the creditor or from the debtor by way of land and things of that sort, but beyond that, they also carry insurance which is paid for by the debtor.

Mr. Chairman, why in those circumstances, in view of the fact that there is this sort of protection, this sort of additional security which is afforded the creditor, why is it necessary to further erode the position of the wage earner in those circumstances? There simply doesn't seem to be any rationale for that. How much security does the capitalist, and that's what we're talking about, how much security does the capitalist require? I mean we can go on and on. We have insurance; we have the security they take by way of the instrument registered at the Land Titles Office. How much is necessary? We are providing layers of protective devices for people who are in the business of taking risks and assessing risks, and for those who are simply trying to earn a basic living, we're providing jeopardy. It makes absolutely no sense at all. It should be just the other way around; the protection should be to the working person, the person who can't go into the employer's office, and who wouldn't if he were able, and say, "Tell me, are there going to be any real property mortgages or any perfected money, security in trust, that will have priority to my wages should this company be dissolved." I mean it's absurd, the working person has absolutely no recourse. The working person is put in a position of total disadvantage, and here the government is rushing to look after those who have lawyers, accountants and managers who are very large, by and large, commercial institutions in the community. It's a bit of midsummer madness, and the government seems to be engaging in this sort of thing on an apparently regular basis.

If there ever was a bill that deserved withdrawal, Mr. Chairman, this is the one. We asked the representative of the Manitoba Loans Association whether he could tell us what it was that aggrieved his clients in this regard. And, you know, he couldn't. We found out that there really wasn't much reason for them to be there. We heard submissions this afternoon which were fairly substantive and I think they were based on real concern. So why are we going meddle and further confuse and mix up labour management relations in the province? In doing so, are we not simply placing another burden on the

shoulders of management? It's fairly evident from what Mr. Martin said that unions are simply going to protect themselves; they are going to require performance bonds with respect to the wages. That is going to be passed on as a cost to the employer. It's fairly evident that you're doing nothing to help the employer. You might be doing a heck of a lot to help the financier, but you're doing absolutely nothing for the small business person.

But Mr. Martin summed it all up. He wasn't here on behalf of people who were within the union collective bargaining process. He said they could take care of their own; they have no problem. It was the little guy. He was concerned about the cases that we heard about involving the construction companies that every year closed down a former corporate entity by simply appending a new model year at the end, XYZ Contractors, 1978, and the next year, 1979, and so on; he was concerned that the people who work for them would be given short shrift. He pointed out that this was a common practice in the province, that contractors would wind up their affairs, dissolve their corporation and start afresh the next year. So why are we playing into their hands? Why aren't we protecting the little people? It's crazy. Government seems to have become confused and inane in this province.

It seems to me, Mr. Chairman, that if there is going to be anything effectual in this regard, it's absolutely essential that the amendment of the Member for Rossmere be considered with a good degree of seriousness by all people around this table, otherwise, we're going to do something that is terrible irresponsible and something which I am sure will come back to haunt this government. Frankly, I just don't think that the people you represent will accept the fact that you're going to place the Canadian Imperial Bank of Commerce in priority to them. I just don't think they're going to have a great deal of sympathy for a government that does that sort of thing. And there's no reason why they should.

Mr. Chairman, why don't we concern ourselves with those who we purport to represent, and rather than just pay lip service to the common political sentiments that are expressed in this House, why don't we hoist this provision respecting priority of wages and get back to some good common sense and reasonable behaviour?

**MR. CHAIRMAN:** All those in favour of the amendment?

**MRS. JUNE WESTBURY (Fort Rouge):** I was just waiting to speak.

**MR. CHAIRMAN:** You want to speak? Mrs. Westbury.

**MRS. WESTBURY:** Thank you, Mr. Chairperson. When I put my hand up, that's what it means, that I want to speak. Mr. Chairperson, I would like to hear from those who are against this amendment before I vote on this because I'm concerned here. This went on for much too long on Saturday morning and it has gone on for quite some time here today. What I'm hearing is sort of a conflict between union representatives on the one side and banks and large

corporations on the other side. That's what I read into what is being said.

Now, I'm not concerned with the banks, the insurance companies and the large mortgage loan companies, neither am I concerned with the union bosses, but I'm very concerned about the effect that this might have on the person who is trying in these times of restraint to run a small business and to have employees who are contented and will stay in the business, who can even find people to come and work for him or her. I'm also concerned about those employees.

Now what I want to hear is that, indeed, somewhere in this bill there is protection for these people and that they are not just being abandoned to the rights of the big corporations whose head offices, most of them, aren't even in this province. I don't know why in the world we're so intent — it seems, because I don't hear the opposite point of view expressed — why in the world we're so concerned with protecting these large corporations? Why aren't we worrying about the person who is trying to maintain a small business or a medium sized business and who is having to compete in many cases with national firms in obtaining employees, and some of these firms don't have unions. The employees would not have the kind of protection that Mr. Corrin has just referred to, in the demands of the union contracts, and where are we concerning ourselves with these people? I want to hear something from the government on this because right now all I see is, no concern expressed whatsoever. And before we vote I seriously suggest that the Attorney-General, somebody on the government side, should answer these questions because they have not been answered, to my understanding anyway, and please remember that we're not all lawyers around this table and we'd like this explained, as the legislation needs to be explained to ordinary people with ordinary education and ordinary comprehension. We'd all like to understand it, please, Mr. Chairman.

**MR. CHAIRMAN:** We're all little guys in other words. Mr. Jenkins.

**MRS. WESTBURY:** I am one of the little guys.

**MR. JENKINS:** Thank you, Mr. Chairman, I'm speaking in favour of the amendment that has been moved and I find it simply ludicrous that since this legislation is going to make much more difficult the task of the Department of Labour for the enforcement of the Payment of Wages Act, that we have not heard in this House, during debate on second reading, any comment from the Minister of Labour, none whatsoever; we had heard none at this committee meeting. Now I would like to know, if this bill passes in its present form which puts on the low priority part of the totem pole the priority for workmens' wages, just how the Minister of Labour intends to enforce The Payment of Wages Act.

If a firm that a workman is working for, and as has been pointed out, a person going to work for an employer, certainly the day that he goes to work for the employer, what is he supposed to do, file in county court with the property registry a caveat of lien against that company for his wages? My God, if

the boss found out, he'd fire him. But that is the only way he can protect himself. There is no way. By the time the person here finds out that the firm that he is working for, may go into bankruptcy or receivership, he is so far down the list on the registry system that the amount of money, if he's going to get any, and what we seem to fail to realize, members of this committee — Everybody seems to think that this workman is going to get paid 100 cents on the dollar that is owing to him. That is not the case; he may, if he is fortunate, get 50 cents on the dollar. Because there are cases where it could be that wages in excess of 2,000 could be owing by that employer to that employee. We all know what wages are today and the prices, so that when you're looking at an amount due and payable by the employer to the employee, as subsection (1) of 7 states, even though it's way down on the totem pole, the fact that that employee, he may be owed 4,000 worth of back wages, and you know, that's only maybe a couple of months wages, in today's cost of living in many cases.

I just can't understand how the Minister of Labour, who is primarily the person who is to protect the wages of the people, and in many cases these are people who are not in union shops, as has been pointed out this afternoon — sure, those holding union contracts, in many cases will be able to protect themselves, but we're talking about people here who have no protection whatsoever. If you, as legislators, are not prepared to deal with these people — these are the people that elect you, it's not the people down in the Canadian Imperial Bank of Commerce or the Toronto-Dominion that elect you. It's those electors out of your constituency, not the Bank of Montreal, Bank of Commerce, or Royal Trust that elect you, it's John Doe who puts his X on that ballot. And I say to you, well, if you want to put another nail in your coffin — and you sure are getting a lot of nails in your coffin lately — go ahead; if you want to say, damned, full sails ahead, go ahead. But I can assure you that the people out on the hustings, they will know, they will know who, they will know who put it in. We'll make damn good and sure that they know, come the next election. I would say to the Minister that you seriously consider this bill. These are little people you're talking about. Never mind talking about these little people may have investments.

I have spent 35 years in the trade union movement representing people, and I'll tell you there's damn few of my members that are holders of trust accounts, because two or three weeks ahead that is all that they have in the bank. No more. Sometimes even less. They're not living high on the hog out there, don't kid yourself that they are. And therefore I say to you, it is incumbent upon you, you the people here, who are elected to represent them — not elected to represent the trust companies, not elected to look after the banking industry. My God, these people have got a big enough lobby, you talk about big unions, well there's some big unions. These people work together, hand in glove, far more so than the trade union movement ever does.

I say to you, Mr. Chairman, that this is a regressive step, and I have always said that this should not be called the Progressive Conservative Party, it certainly should be called the Regressive Conservative Party,

because every step that you are taking, all you have done in this session is wound up with you know what on your face. Every piece of legislation you've dragged out here. You're not even satisfying the people that you think you're satisfying because they came here and told you it was no damn good either. I would suggest, Mr. Chairman, that we vote for the amendment and restore some sanity into the collection of payment of wages in the province of Manitoba.

**MR. MERCIER:** Mr. Chairman, let me just perhaps review once more the history of this legislation. Last year, we brought in an amendment to the Payment of Wages Act which would have given registered instruments in the land titles office priority over wage claims, all registered encumbrances. In discussion at this committee we agreed that, within The Statute Law Amendment Act, we would amend the Act so that section only came in upon proclamation and that in the meanwhile, we would refer this matter to the Law Reform Commission for review and comment. The Law Reform Commission recommended in their first recommendation that the Act should clearly set out that all payment of wage liens must be registered in a Land Titles Office as a condition of their enforcement against real property, that their priority is established according to the time of registration. We haven't followed that recommendation, Mr. Chairman.

What this Act does is give wage claims a priority, in fact, even against the provincial Crown, over all other liens, or claims or rights, except a registered mortgage and a registered purchase money security interest, which is a chattel mortgage or a conditional sale agreement. Now that, Mr. Chairman, particularly to the Member for Fort Rouge, is the effect. The wage earner has a priority over all other claims or rights, except a first mortgage, except purchase money security interest, for example, a chattel mortgage.

Mr. Chairman, again I refer to the case in B.C. on a B.C. legislation, the Manitoba Court of Appeal on the Manitoba legislation, that said in effect that the statutes did not give, although they tried to, could not give priority over registered mortgages. That, Mr. Chairman, is the priority that accrues to wage earners as a result of this legislation.

I refer back to the Law Amendments, June 15, 1979, where the previous legislation of that year was before this committee. Mr. Walter Kehler was before the committee and said: I know of another case involving an elderly lady in a pretty classic situation, who sell their house when they are no longer able to maintain it. They take a mortgage back because they need to invest the money somewhere anyway. It helps them to sell and gives them a regular income. These are little people, they're not like a big insurance company. They are now standing behind a series of workmen, years later, and there goes the retirement fund. He referred to a number of other cases where individuals, whose only fund, only asset, could be affected by the legislation which was in effect.

So a lot of individuals will be protected under this legislation, Mr. Chairman, who make a mortgage investment on the basis of the Torrens title system in Manitoba whereby they are assured of their priority

according to the time of registration. They are the only people, plus the purchased money security interest who will have priority over a wage earner's lien, who will have priority over any other claim or right, including the Crown in right of Manitoba, Mr. Chairman. That's not a bad position to be in. That's certainly a pretty high priority and at the same time it protects those people, many individuals who make investments on the basis of priority of registration, and we're giving them, in this legislation, amending that which was before the committee last year, giving wage earners priority over all other claims.

**MR. CHAIRMAN:** Mr. Cowan.

**MR. COWAN:** I'd just like to ask the Minister a number of questions while we're on this amendment. I believe it's probably an appropriate place as any to discuss the whole concept of the bill - well, to discuss the concept of 7(6), 7(7) and 7(1) which is, in fact, the bill. I would ask the Minister if he know - and he just quoted to us a statement by Mr. Kehler from the Law Amendments Committee of last year - if he knows if that instance or of any instances like that, that an elderly couple or an individual lost a mortgage or lost money because of the implementation of this Act? In other words, Mr. Kehler does not say it was because of The Payment of Wages Act. As a matter of fact, he studiously avoids saying that in his presentation.

**MR. MERCIER:** Last year?

**MR. COWAN:** Last year, Page 140.

**MR. MERCIER:** Page 140? I haven't, Mr. Chairman, gone through all of the representations last year, but I recall . . .

**MR. COWAN:** I did.

**MR. MERCIER:** Good for you. Maybe you can answer your own question, then.

**MR. COWAN:** Well, the reason I ask the question is because I know the answer. Now, what I'm asking the Minister is, does he know of any cases where . . . can he document the allegation that if we don't change this we are going to be hurting the individual investor? We've heard numerous presentations of people who have come before us who are representing not the individual investor but the large trust companies or, as Mr. Kehler's case, representing the Manitoba Branch of the Canadian Bar Association whom I know has made other representation in regard to The Payment of Wages Act, and they tell us, pity the poor individual who invests and who loses their investment because of this. Do you know of any cases, can you document a case, can you tell us an individual, because every time we've asked to have that case documented, we haven't heard anything?

**MR. MERCIER:** Let him continue on while I . . .

**MR. COWAN:** I don't the Minister can, because I don't believe that documentation exists to any extensive degree, perhaps. I'm not saying it doesn't in one or two instances, but I can document

numerous instances or instance where the wage earner has lost wages, has lost money because of bankruptcy. Mr. Coulter came before us today and said that the history of this situation was such that before this legislation was put in place that wage earners were, in fact, being forced to bear the brunt of bankruptcies and that's why this legislation was put in place to protect the wage earner. I'd ask the Minister if he has reviewed that history and if he can give us any documentation as to the number of claims or the number of wage earners who suffered adversely, before The Payment of Wages Act was brought in, in regard to losing wages because of bankruptcy.

**MR. MERCIER:** Mr. Chairman, with respect to bankruptcies, of course, that's federal legislation and the priorities in a bankruptcy are established in The Bankruptcy Act, which is not within the jurisdiction of this government.

**MR. COWAN:** My legal friends are telling me that I should address the question to foreclosures, although I think it's probably appropriate to address it to bankruptcies, also, because that's in fact what this Act does deal with to a certain degree. I'd ask the Minister if he's appraised himself to the situation previous to the passing of this Act by the previous government, and what has he done to assure himself or what has his department done to assure him that situation won't repeat itself, that history will not in fact repeat itself in this regard and we are faced again with the same situation, albeit it may be lessened a bit, it will be a significant burden on the wage earner.

**MR. MERCIER:** Mr. Chairman, again, for the umpteenth time we are not changing the existing state of law in Manitoba. What is contained in this Act is what the state of law is in Manitoba according to the court decisions in the Court of Appeal and in the Supreme Court. I can refer to page 3 of the Law Reform Commission report, which stated, the same problems which confront major lending institutions under these provisions, also exist for individual purchasers and small private lenders, many of whom are, we can properly assume, wage earners in their own right.

**MR. COWAN:** I would ask the Minister if the Law Commission goes on the document that?

**MR. MERCIER:** I don't believe so.

**MR. COWAN:** No, I don't believe they do either, Mr. Chairperson. I don't think that it is information that would be easily documented because I don't think it is, in fact, the case to any significant degree. I would ask the Minister if the Law Reform Commission did not also make a number of other recommendations in regard to the lien system as it is set out now, in regard to corrections that should be made?

**MR. MERCIER:** Mr. Chairman, they made a number of recommendations, yes.

**MR. COWAN:** I'd ask the Minister if any of those recommendations have been brought forward in the form of legislation?

**MR. MERCIER:** Yes, the one particularly about director — the one item that particularly was on Section 1 of the bill, the definition of director which had been a real problem in enforcement of claims, apparently by the labour department.

**MR. COWAN:** Mr. Chairman, if I can seek your assistance also - and I'm not saying this in a derogatory sense, it's just difficult to hear; I think it's because the windows are open, the acoustics are bad and there's cross conversations. I just want to make it plain that it is difficult to hear and it's hard to try to communicate with the Minister in that regard and would ask your assistance in trying to keep the chatter down at least somewhat.

**MR. CHAIRMAN:** Ladies and gentlemen, can we have the side conversations ended, please.

Mr. Ferguson, sir, would you carry your business on outside the room please?

**MR. COWAN:** It's just that it is for some reason tonight, I think it's the windows being open, the acoustics are bad in here this evening.

I would ask the Minister, he mentions that there has been one change made in regard to the director, but what I would ask the Minister is if there has been any other change in regard to the lien system. In other words, I believe it was Mr. Cvitkovitch who mentioned that there were 92 liens or 92, I forget his exact words, and I don't have my notes before me, has there been any change made to clarify that situation by legislation?

**MR. MERCIER:** Mr. Chairman, it is an awfully complex situation. We have asked the Law Reform Commission to review the whole area of the priority of liens.

**MR. COWAN:** I would suggest that this is an awfully complex system, in fact intermeshes with that, and that you shouldn't be proceeding on an ad hoc basis as this particular bill is brought to us. I would ask the Minister if he is prepared to hold this bill in abeyance until such a time as it can be worked in to a general program of clarifying the lien system?

**MR. MERCIER:** No.

**MR. COWAN:** I would ask him why not?

**MR. MERCIER:** Because, Mr. Chairman, I have had a number of discussions with the chairman of the Law Reform Commission on that project that I referred to them and it's going to take a great deal of time to deal with.

**MR. COWAN:** Can the Minister then indicate what the immediate problem is that this bill addresses itself to, that they would have to proceed with this and not proceed with the other bills?

**MR. MERCIER:** Mr. Chairman, as I've indicated, all this bill does is confirm the existing law in Manitoba. We don't need to argue about it.



**MR. COWAN:** The Minister is saying that it clarifies the existing law —(Interjection)— he is saying that it clarifies a court case.

**MR. MERCIER:** It doesn't clarify, it sets out what the law is.

**MR. COWAN:** It sets out what the law is as made by the courts. Is that correct? The Attorney-General is telling us that there was a court decision and that that is now the law and that we in the Legislature must suit and fit our legislation to that court decision, rather than attempting to do something solid to protect the wage earners sanctity in regard to prior claims and that that is the cause for this legislation being brought forward.

I would suggest that the courts decided that this legislation was not worded so as to adequately protect the wage earners' lien and we should be rewording it to protect the wage earners' lien in case of bankruptcy or foreclosure and not rewording it to take away from their claim. I ask the Attorney-General, and I ask him to seek information, could we not have proceeded in that manner, in other words to try to clarify the legislation to better protect and better fulfil the intent of the previous legislation?

**MR. MERCIER:** Mr. Chairman, we could have proceeded to proclaim the legislation which was passed last year but certainly that would have been legislation which would have made it more difficult for wage earners to claim liens because their lien would have been subject to all registered encumbrances, such as certificates of judgment, etc. This legislation improves that situation by giving them the first claim over all those types of registered encumbrances with the exception of mortgages and the personal property security interest.

**MR. COWAN:** It is interesting, Mr. Chairperson, where history begins for the Minister. A few moments ago, the Minister said he wants to review the history of this Act and he wants to review the history of the situation and he started with last year's amendments. Well, that's not where the history starts. The history of this particular section of the Act started when the Act was brought forward in 1975. (Interjection)— Well, 1975 is what I have from Bill No. 29, the Payment of Wages Act, at which point it was suggested that experience has shown - and Mr. Russ Paulley is speaking at this point, in the House - "Experience has shown that wage claims have sometimes not been satisfied because of the higher priority given to claims of secured creditors, therefore the new provision stipulates that the claims for unpaid wages have priority over claims of all other creditors including those of the Crown and secured creditors". So that's the history of this particular section of the Act. But then the Minister doesn't want to address himself to that situation, I don't think he's even reviewed that situation. I think the Minister wants to say well, last year we brought forward this lousy amendment to the Statute Law Amendments and because it was so lousy we decided not to proclaim it and this year, this looks good in comparison to the lousy amendment we brought forward last year, so why don't you accept this as a blessing. Well it certainly isn't a blessing.

The Minister also went on to say in his remarks, that this amendment now gives wage claims priority over — and then he listed the items which are exempt. Well, the fact is that this amendment does not give wage claims any priority, it takes away priority from wage claims. So, if the Minister wants to start last year then I suggest to the Minister that he's fooling himself and while he may be capable of fooling himself he's not capable of fooling us on this side and the fact is that the history goes back to 1975 when there was a serious situation, this bill was put in place, and the Member for Fort Rouge finds herself in somewhat of a conundrum, or somewhat of a dilemma, in regard to this.

I just read to her what Mr. Patrick said in regard to this bill on June 5, 1975. Mr. Patrick said, and I quote: "So we really did have problems and there was no recourse for the wage earner, no recourse to collect, and the most important principle in this bill, I believe that perhaps the most important principle that the Minister would accomplish with this one principle in the bill is to have wages have prior claims to any other lien holders, be it secured lien holders, which is registered mortgages and other lien holders, and in this case you're making, the way I understand the bill, making wages a prior claim to anything else. I think this is the biggest principle in this bill because that will solve I would say almost all the problems or the majority of the problems we have — just by this one, this one principle in the bill, by making wages have prior call on any other lien holders. I'd say it's a very important principle and it's a good one." And he goes on to indicate that they're going to vote for it, and I would suggest that, although I'm not used to, nor even comfortable in quoting Liberals, I believe that Mr. Patrick did see the value of The Payment of Wages Act as introduced in 1975.

I would hope that the Member for Fort Rouge would see the disadvantage of this particular amendment. The disadvantage is — and I have to just make one aside, if I can. I know you'll allow me to do that because it's germane to what was said in the committee.

**MR. CHAIRMAN:** Without question.

**MR. COWAN:** And that is that when the Member for Fort Rouge refers to union bosses, I do have to take exception to the use of that word, and I would point out — and I know she was at the committee today — that Mr. Martin and Mr. Coulter said, hey, we're not here on behalf of our membership, because our membership in fact are able to protect themselves through the collective bargaining process. But we are here on behalf of the unorganized who do not have the protection of an organization, be it a union or an association.

**MR. ENNS:** Like that little old lady that didn't want to cross the street, but the boy scout insisted on helping her.

**MR. COWAN:** Isn't it interesting, when anyone talks about unions, the reaction that you get from the government side in regard to the value that unions play? They can't believe that the unions could have come here in an unselfish way to put forward an

argument for the unorganized. That's totally out of their understanding. They are incapable of understanding that certain organizations . . .

**MR. CHAIRMAN:** I allowed you that little aside, can you get back to the point.

**MR. COWAN:** Well, I think this is a point, but I will get back to the Attorney-General's comments on this bill, because I believe that, although they are not intended to mislead, I do believe that one could interpret them incorrectly, and that is they could interpret that the history of this legislation really did start last year with the lousy amendment that they brought forward and therefore we should pass this because it improves upon an amendment that was so bad that they never proclaimed it. The fact is you are taking away priority from the wage earner. Is that not the case as it stands now? Given the legislation as it stands today, would the Attorney-General confirm that this bill will, in fact, take priority away from the wage earner and not give priority to the wage earner?

**MR. CHAIRMAN:** Is that the last of your questions?

**MR. COWAN:** No, that's not the last of my questions.

**MR. CHAIRMAN:** Okay, well perhaps you could ask all of your questions and then he'll . . .

**MR. COWAN:** Are we banking questions now?

**MR. CHAIRMAN:** Yes, we're banking questions.

**MR. COWAN:** Ah, isn't that terrific. Well, Mr. Chairperson, we have tried to proceed on this bill in, I believe, an efficient and effective manner. We've tried to convince the Minister of the inappropriateness of this particular amendment, and I think we have done so in a spirit of goodwill and in a spirit of trying to, through the legislative process, interact, trade information back and forth. And now the Minister finds himself in a spot where he can't give us the information we want. So instead of just saying, no, I haven't really reviewed the situation; no, I don't know the facts; no, Mr. Cvitkovitch didn't know the instances that he referred to; no, I can't give you the instances that Mr. Kehler referred to, but I'm going to say that Mr. Kehler said this without being able to substantiate it or back it up.

Now that he can't give us that sort of information, now that he can't give us one good reason for doing this, one good reason for bringing this amendment forward, other than the fact that he has had representation for a number of years from different groups — and I just refer him to the Manitoba Bar Association Newsletter of April, 1979, when it says that the Manitoba Bar Association has been lobbying the government in order to have it re-establish precedence for registered charges. I would ask the Minister who else has lobbied the government on behalf of this particular bill? Or, perhaps if I can phrase it in a less offensive way, I'd ask the Attorney-General who he has had consultations with in regard to this particular change?

**MR. CHAIRMAN:** Is that the last of your questions?

**MR. COWAN:** No, that is not the last of my questions. I would ask the Minister if he can tell us who is responsible for The Payment of Wages Act?

**MR. CHAIRMAN:** Is that the last of your questions?

**MR. CORRIN:** Point of order, Mr. Chairman. Mr. Chairman, he doesn't have to give you a commitment as to when his questions will end. They will end when he feels that his job is done, tonight or tomorrow morning.

**MR. CHAIRMAN:** Because of the cross-examination that's going on, the Minister would prefer to have all the questions asked, and then respond to them all.

**MR. COWAN:** I sense that the Minister was willing to answer that question, Mr. Chairperson. I would just ask him . . .

**MR. MERCIER:** I'm being muzzled.

**MR. COWAN:** I'm sorry, I didn't hear what the Minister said. (Interjection)— I was afraid I had heard what the Minister said, and now I know why he doesn't want to repeat it. I know that times are difficult for the Minister and I don't want to add to his burden. There's an old saying, these are the best of times and these are the worst of times, and I think the Minister has got stuck with the worst of times over the last couple of weeks.

**A MEMBER:** There's another one that says, there's no heavier burden than a great potential.

**MR. COWAN:** But I would suggest that we can proceed very quickly through passing or not passing this bill, and I realize that the government has the . . .

**MR. CHAIRMAN:** Let us vote on the amendment, then.

**MR. COWAN:** Well, the Chairperson says, let us vote on the amendment. I for one would like to have a set of information and a set of data to which I can direct my attention before voting on that particular amendment, although I am fairly certain of the way in which I am going to vote on that amendment.

I would expect to have some answers from the Minister. And I'll tell you why, Mr. Chairperson, it's very difficult when the Minister decides to bank questions. And that is because sometimes the answers lead to other questions. (Interjection)— Oh, exactly. Now, I can only infer from that you don't want the questions, and I can only infer that you don't want the questions because you don't have the answers. And I can only infer that if one doesn't have the answers, one should not be bringing forth legislation and trying to support it and trying to defend it in this sort of a situation.

What I am perfectly willing to do is to now say, these are the last of my questions until such a time as I have further information which may solicit more questions, and I'm willing to do that to give the Minister the opportunity to answer the questions that he has already banked, so that we can proceed. I don't want to drag this out. I would like to examine this bill, and I would ask the Minister if he can

answer those questions that I asked him, and then I would reserve the right to ask further questions if it seems appropriate at the time.

**MR. MERCIER:** Mr. Chairman, with respect to groups which have made submissions to the government with respect to this bill, the only ones I recollect — I'm giving the answer off the top of my head without going through the file — are the Manitoba Bar Association, I think through their Real Property Subsection, the group upon whose behalf Mr. Cvitkovitch appeared, and the Law Reform Commission, who I believe discussed that matter with a number of groups.

Now the second question he asked, who is responsible for the Act. I am responsible for The Real Property Act and the bill.

**MR. COWAN:** But who is responsible for ensuring the enforcement of The Payment of Wages Act?

**MR. MERCIER:** The Minister of Labour is.

**MR. COWAN:** Did the Attorney-General, Mr. Chairperson, consult with the Minister of Labour in regard to the provisions in this bill and the effect that it may have on the wage earner?

**MR. MERCIER:** Mr. Chairman, I can't advise the member of the details, but as he is aware, this is a government bill; it's gone through Cabinet and it's supported by the government, of which the Minister of Labour is a part.

**MR. COWAN:** Would I be incorrect, Mr. Chairperson, in making the assumption that a Minister who brings in a bill that amends another Minister's legislation would not have consultation with that Minister in regard to the amendments, in regard to the impact, in regard to the need? Would that be an incorrect assumption? I don't know how their government works. Sometimes I wonder.

**MR. MERCIER:** Mr. Chairman, the member can make whatever assumptions he likes.

**MR. COWAN:** Well, would I be incorrect in making that assumption?

**MR. MERCIER:** I've answered the question, Mr. Chairman. It's a government bill.

**MR. COWAN:** The reason I asked that is, when the Member for Kildonan, I believe it was, asked the Minister of Labour how he was going to vote on this particular bill, the Minister of Labour said words to the effect that time will tell. And then when we had a vote on this bill to send it to this committee, which was a standing vote? — yeas and nays? — the Minister of Labour was on, I imagine, government business or constituency business, and was not there. It was a Friday afternoon or Friday night, I believe, even. So I don't fault him for that, I just show that we have no indication of where the Minister of Labour stands on this particular bill.

Is the Minister assuring us that because it is a government bill, that the Minister of Labour will, in fact, be supporting the provisions of this bill?

**MR. MERCIER:** Well, Mr. Chairman, these days I'm never too sure who will support my bills.

**MR. COWAN:** As we said, Mr. Chairman, it was the worst of times. I do have a certain degree of empathy with the Minister, and would hope that he had made the proper representations to the Minister of Labour. As a matter of fact, if I can be so presumptuous, I'm certain that he did and I'm certain that, knowing the Minister of Labour, that the Minister of Labour would not allow a bill to be brought in that was not in keeping with the Minister of Labour's own opinions in regard to this particular legislation.

So, what I understand now is that the Manitoba Bar Association has made representation, the Mortgage Loan Association has made representation. Of course, the Law Reform Commission has its report. I would ask the Minister if he ever at any point solicited the opinion of any organizations or associations that represent working persons who might be most affected by this particular bill?

**MR. MERCIER:** Mr. Chairman, what I'm trying to do is look at the Law Reform Commission to see if they've set out who they canvassed and consulted with. I believe that they consulted with the Department of Labour.

**MR. COWAN:** They consulted with the . . .

**MR. MERCIER:** With people in the Department of Labour, not the Minister.

**MR. COWAN:** But not with individuals representing workers. Don't you think that it would be appropriate when bringing in a bill of this sort that you made those sorts of searches, that you went out to determine the opinion of those who might be most affected by the bill? Are you confident that the Manitoba Bar Association, the Mortgage Loan Association, was in fact giving you the complete and entire story and picture in regard to the impact of this bill.

**MR. MERCIER:** Mr. Chairman, as I've said on a number of occasions, this bill merely sets out what is the law in Manitoba.

**MR. COWAN:** I disagree. I mean, I don't disagree, this bill is going to be legislation. But I would ask the Minister, could he have not attacked the problem or approached the problem from a different perspective, and that is by trying to protect the sanctity of the wage that is owing to the wage earner, rather than trying to protect the sanctity of the registered claim, the mortgage and the purchase . . .

**MR. CHAIRMAN:** Mr. Schroeder.

**MR. SCHROEDER:** Point of order, Mr. Chairman. I thought I had heard once before and now it was confirmed again. The Attorney-General has just finished saying again that we are here to confirm existing law. Why are we going to pass a law that says this is the law when that already is the law, and there's no ambiguity. What are we doing here in the

middle of July, on a nice evening, passing a law which is already the law? It's incredible.

**MR. CHAIRMAN:** That is not a point of order, Mr. Schroeder. Mr. Cowan.

**MR. COWAN:** Thank you, Mr. Chairperson. I would ask the Minister if he can reply to my question before the point of order was placed before you. And that is in regard to, could not the department have approached this from a different perspective, and that perspective would be to protect the sanctity of the wage earner's claim over that of the registered claim.

**MR. MERCIER:** Mr. Chairman, the wage earner's lien is protected over and above all claims or liens, with the exception of a registered mortgage or a registered personal property security interest.

**MR. COWAN:** Has the Minister's department done any research to determine what percentage of the assets those two claims would take normally in the event of a bankruptcy?

**MR. MERCIER:** No.

**MR. COWAN:** Does the Minister not think that that might be an appropriate topic of research in order to determine whether in fact there will be any money left over for the wage earner's claim? What he's telling the committee and what he's told the House is, do not worry, because the wage earner is only third on the list and the fact is, I would suggest, that given the information that I have been given, that if there was a bankruptcy or foreclosure and these two particular liens did come before the wage earner's claims, that there would be very little left over for the wage earner. Can the Minister support that thesis?

**MR. CHAIRMAN:** I think the Minister indicated that bankruptcies aren't covered by this act.

**MR. COWAN:** I included foreclosures just to be safe; or I should have, if I didn't.

**MR. CHAIRMAN:** You didn't but that's alright.

**MR. MERCIER:** Mr. Chairman, I don't think I have anything more to add with respect to the material in support of this bill. I've said what this bill does, what it confirms, what the law is. The fact that wage earners will have priority over everything except real property mortgages and purchase money security interest, even over the Crown in right of Manitoba, and I think either you're for or against it.

**MR. COWAN:** Well, now I finally agree with the Attorney-General. You're either for or against this bill, and we are against it, and we are against it because we are not going to be lulled by the assurances of the Minister that the wage earner has priority over everything but purchase money security interest and real property mortgages. I would ask the Minister just one last question — I think; I've said that before and it hasn't always worked out that way. I would not want to be kept to that statement. But I'd ask the Minister if I read this bill correctly — actually I'm going to ask the Minister two questions.

See, already I knew I was wrong. The first question is, if I read this bill correctly, would the Minister suggest that if a wage earner went in and registered a claim for wages immediately upon being employed by an employer and if that claim or that register was previous to the other registers, would that register for wages have priority over others?

**MR. MERCIER:** Mr. Chairman, it would be to the extent of the unpaid wages.

**MR. COWAN:** Then the wage earner couldn't really do that? I'm sorry, it's going to be more than two, Mr. Chairperson. Then a wage earner really couldn't go in and register their claim for wages until such a time as a firm went under by foreclosure or bankruptcy, is that correct?

**MR. MERCIER:** A wage earner can't file a claim until he has a claim for unpaid wages.

**MR. COWAN:** But the mortgage holder and the purchase security interest holder can, in fact, register their claims far previous to any bankruptcy, so the wage earner just doesn't stand a chance?

**MR. MERCIER:** For moneys advanced.

**MR. COWAN:** Certainly, but those moneys, the way that businesses operate nowadays, most businesses, would probably take up much of the assets of the company upon foreclosure or bankruptcy and there would be very little left over for the wage earner. Is that not a valid assumption - in a generalization?

**MR. MERCIER:** There's no evidence of that.

**MR. COWAN:** There's no evidence because you haven't done any research. Do the research, come back to us, prove a case to us. They're very anxious to get this through. They're very anxious to get this particular Act through, on the basis of consultation with the Manitoba Bar Association, and the Mortgage Loan Association and on consultation with the Law Reform Commission, although the Minister has indicated that he has not put into legislation their full recommendations, so one has to doubt the validity of their input. I would suggest that it is going to go through because we do not have the ability to stop it when it comes to a vote. But it's not going to go through easily.

This particular bill is probably one of the most detrimental pieces of legislation in regard to the rights of working people that we have before us, and I now know why we've experienced such silence on the part of the Minister of Labour, and I now know why this is brought in under the Attorney-General's name and not the Minister of Labour's name, because he knows that if he is closely associated with this particular Act, that he will be doing a disservice to not only the constituency geographically that he serves, but also to the constituency of the working people in this province, to which he has been entrusted a responsible position. I would suggest that he is betraying that trust. I would suggest that he is, in fact, bringing forth legislation which will do more to harm the wage earner in this province than any other piece of legislation that we

have before us, perhaps except for the Rent Control Bill, which is another monstrosity that can only work against the people of this province. You know, they've been referred to as little people. I don't refer to the people of this province as little people.

What this bill does, is this bill takes the rights of the individual wage earner away from him or her. What this bill does is it takes the people who labour in this province, who do it on good faith, who don't have any concern about risk capital, risk ventures, they do it because they want a fair day's wage for a fair day's work and it puts on them the onus and responsibility for bad management. Because if a plant is foreclosed or if a plant goes bankrupt, it is because management was unable to keep that plant going. And who should have to pay for that? Well, if we believe the government, if we believe the Progressive Conservative party, it is the wage earner that should have to pay for that, even though the mortgage lender, even though the person who is providing the purchase money security interest, are in fact putting on top of the capital, interest, so that they may take the risk out of their efforts.

That interest is there, not only to make a profit but they have always told us, that we have to have such high interest rates, because we take a risk. We have to make money on top of the money we provide because we're in the risk business. Well damn it, if they're in the risk business, let them take the risk, let them take it broadly on their shoulders, and on their shoulders alone, and let the wage earner have only what is due to the wage earner, and that is a fair day's wage for a fair day's pay. And that's all they ask. They don't want interest, they don't want money on top of that, they just want their just due. They just want what is coming to them and it is this government, the Attorney-General and the Minister of Labour who is keeping that from them; it is they, who are denying justice to the working person in this province. I just would hope that, not only I, but the members on this side, and the presentations that they got today, are eloquent enough to convince them of their folly, are eloquent enough to say, this is a bad piece of legislation.

**MR. CHAIRMAN:** They're certainly lengthy enough, I'm not sure about the eloquent Mr. Mercier.

**MR. FOX:** I thought you were supposed to be impartial.

**MR. CHAIRMAN:** I am, I am, I'm just making a comment. I said the same things to the other side.

**MR. MERCIER:** Mr. Chairman, let me illustrate some of the problems that this legislation created. It in many instances defeated long-established systems of enforcing claims for wages, and I cite some examples to you.

Mr. A. is an employer, he owns land on which a home is being built. The builder puts a Mechanic's Lien on the house to secure his contract price, including his employees wages. The builder's employees are also entitled to put a direct lien on the house for their wages, although they do not have a direct contract with Mr. A. the owner. The Mechanic's Lien therefore creates a security against the house on which workers have expended work to

cover their wages. If the employees of Mr. A. who've not expended any work on the house, apply to the labour board and get an order for wages, the order will take priority over the Mechanic's Lien of the people who've worked to give the house value.

**MR. COWAN:** I don't like to bank things.

**MR. MERCIER:** Well you're going to have to.

**MR. COWAN:** Can I respond to that?

**MR. MERCIER:** No.

**MR. COWAN:** No, I can't respond to that, is that what you're saying?

**MR. MERCIER:** I just cite a few examples . . .

**MR. COWAN:** I have a question on that, I would like to ask the Attorney-General, Mr. Chairperson, . . .

**MR. MERCIER:** Mr. Chairman, I . . .

**MR. CHAIRMAN:** Mr. Mercier has the floor.

**MR. COWAN:** All I'm asking Mr. Mercier on a point of order, Mr. Chairperson, if he would be kind enough to relinquish the floor and if we can respond and ask a question in regard to that.

**MR. CHAIRMAN:** I don't think it's a point of order to ask him to relinquish the floor but . . .

**MR. COWAN:** Within my way of a point of order, would the Attorney-General be prepared to answer a question in regard to that so we can clear up what seems to be a difficulty, in my perception of it, in regard to what the Minister has just said to us. One question.

**MR. MERCIER:** Go ahead Ask your question.

**MR. COWAN:** I would ask the Minister if by the changes in this particular legislation, would that Mechanic's Lien now come first or would the worker's wages still be before that Mechanic's Lien, but before that Mechanic's Lien also now would be the real property mortgage and the purchase money security interest, so in fact, this legislation doesn't do anything to deal with that problem.

**MR. MERCIER:** That's right, Mr. Chairman. I started off by saying that — what I was going to cite are some examples of the problems of conflicting liens. The legislation that we have does not correct that situation. That's why the Law Reform Commission have been asked to consider the whole area of conflict of liens, but these are some of the problems that now exist with creating the kind of lien rights, over and above anything else except mortgages.

I could go on to cite a number of others, Mr. Chairman, under a number of other Acts: Garage Keeper's Act, Repair Shop's Act, things like Thresher's Lien, there are just a vast number of liens. What I'm pointing out is that under those Acts, workers have liens for specific work on specific projects, whether it be a car, a house, a watch, or for a farm, and in this legislation we are giving priority to

the worker's liens which will come over and above, these other specific liens with the exception of the mortgages and personal property security interest.

**MR. COWAN:** So in fact, Mr. Chairperson, what is happening, what the Minister is telling me is that we have a jumbled situation in regard to liens, and what he's bringing forward is an ad hoc bill that is only going to deal with part of it, and in fact is going to deal with that to the detriment of the working person, because that's all it does, it only acts against the working person and acts in the benefit of the Mortgage Loan Association and whoever would hold a real property mortgage or purchase money security interest. And what we're asking the Minister to do, is take this bill back again, we did it last year, there's precedent for it, it's probably a good idea, it was a good idea last year, it's probably a good idea this year, take it back, deal with the whole situation, deal with it in a comprehensive way, try to solicit opinions from workers, try to solicit opinions from the Bar Association, from the Loan Association, solicit opinions from farmers, and I don't mean to separate them from workers, because I know they work as hard as anyone else, but try to solicit opinions from a varied and diverse cross section of the population so that we have legislation that does in fact, represent the best interests of Manitobans.

I can assure you that if you have legislation that represents the best interests of Manitobans and not just the best interests of the Mortgage Loan Association or the best interests of the Manitoba Bar Association, that you will have legislation that, in fact, represents the best interests of the working person. Because that is Manitoba. Manitoba is made up of people who labour for their livelihood and who don't expect to take risks and don't expect to gain from taking risks. And I would hope that he would do that and come back next year with a comprehensive picture that truly reflects the makeup of this society and not just representations that have been made to him by what I consider to be fairly vested interests as well as elitist groups.

**MR. CHAIRMAN:** Mr. Banman. We have five speakers, I'm sorry, Mr. Cowan wasn't one of them but I allowed him to go ahead so, please excuse my

...

**MR. BANMAN:** Mr. Chairman, I'd just like to make a few brief comments with regard to my limited experiences in dealing with retail outlets as well as dealing with mortgages and that.

I think one of the problems that we have is that we are zeroing in on the mortgage holder, we are zeroing in on the large trust companies and people of that kind. There are many many mortgages in this province that are held by a widow whose husband passes away and she sells her corner store maybe to an employee or somebody, and then holds a mortgage, Mr. Chairman, on that property. That might be the only thing that those two people have had and worked for — her and her husband have worked there and slaved all their lives for that one little corner store which she has now taken a first mortgage on and is going to live off of the principle and interest for her old age.

What we are seeing here, Mr. Chairman, that if by some chance she sells it to somebody who has an intention of maybe taking her for a ride, she could lose that whole store and her little pension, her little nest egg that she's been putting away. Precisely the same thing could happen to a farmer. Many of the small farmers are now incorporating. If a farmer would sell a half section of land to a corporation, Mr. Chairman — and we are talking about pretty large sums of money in some areas — this farmer, maybe he and his wife want to travel a little bit, they've denied themselves all their lives, now finally they have something that they can sell and in order to sell it properly what they have to do is get a mortgage on it. What we are saying here is that that has to be protected, because if we don't do that, in many of these instances, precisely the small people that the Member for Fort Rouge was speaking about are going to be hurt by this. I am not concerned about the large trust companies. What is going to happen in many of these instances if we don't allow things like conditional sales contracts, for instance, let's use that as an example. A conditional sales contract — most small retailers when selling either TV sets, furniture, automobiles and whatever, deal with a finance company and they deal with floor planning, which means that the conditional sales contracts that they write out are of a recourse basis. What we are saying here is that that particular item, if there is a registered conditional sales contract, registered, that should definitely take precedent before the wages that we are talking about, because you are going to see a situation happen here where people are going to go out on company names and buy things like that, can drain the company and you are going to see wholesale small retailers go under because you cannot — a small retailer that's working on a small profit and margin, making 20,000-25,000 in his or her store and selling 4,000 or 5,000 items, if they get paid back 10 cents on the dollar, Mr. Chairman, that just won't work.

So on the one hand we can argue, and I guess the members opposite can make a good case that we are protecting the large companies, however, in that whole mix of things, there are very very many small people that are very effectively involved in this. Let us not forget that we are trying to get a lot of our young people, people who want to be a small entrepreneur, get them into a business, if the local person who owns that particular business is not ready to come up with that first mortgage, and if that person is worried about the security of that first mortgage, I suggest to you that very many of these transactions that take place today would not take place, because there would not be outside money that comes in and does it.

There are a lot of the people in rural Manitoba, Mr. Chairman, that have never dealt with a trust company. I speak now as a member representing a rural area and a small business, and an aggressive community, I might add, but this happened, a lot of it has happened; the businesses have been passed down by first mortgage from father to son on a good basis. I suggest to you that a lot of the fathers and a lot of the people involved, if there isn't a certain amount of security in this they would not take that first mortgage. This is a problem that is out there right now. It's one of these areas and like I said, the

members I guess can make their point and say that it's just for the large companies. I suggest to you it is not just for the large companies, that it's a principle that if not upheld would be to the detriment of a lot of the so-called small people. The organized labour people, as the members opposite have mentioned, can look after themselves on this, and I suggest to you, the large companies who employ most of these larger shops are the large multi-national companies. In that particular instance we've heard that they can look after themselves. But I say to you if you destroy the principle of first mortgage not having prior claim over all other things, you are really going to cause a lot of hardships with regard to the development of different businesses, the transferring from one person to another. I see that as a real problem in the farm community as well as in the small business community in rural Manitoba.

**MR. CHAIRMAN:** Mr. McBryde.

**MR. McBRYDE:** Mr. Chairperson, I'm not sure if the member who just spoke was aware of the fact that the principle — that in fact we have legislation now. This bill is to change legislation that is in existence and that we have legislation that does put the working people, the wage earner, the person who is on hourly salary ahead of trust companies and other interests. My colleague, the Member for Churchill, asked the Minister whether — and my other colleagues had asked the presentation that appeared before this committee to come up with a specific case of the little old lady and nobody has that example. It's a theoretical make-up example that nobody has been able to verify that it exists.

Mr. Chairperson, I think that the members opposite might understand, because I am trying to recall some of the instances that led up to the initial legislation, and I can recall, Mr. Chairperson, that one of the fairly large and reputable construction company or a sub-contractor construction company where foreclosure did take place, and where wage earners were in fact left out, and the unfortunate reality of the situation is . . . I wonder if I could have order, Mr. Chairman.

**MR. CHAIRMAN:** Order please. Mr. McBryde.

**MR. McBRYDE:** The unfortunate situation is that many wage earners live from paycheck to paycheck and that's a reality of our society, and when they put in their work and that paycheck doesn't come, then those are hard times, Mr. Chairperson. That is a crisis situation for that particular family.

I can recall fairly vaguely a couple of examples from that instance at The Pas when these were my constituents. In fact, Mr. Chairperson, I think that one of them was originally from the constituency of the Minister who just spoke; had got a job on construction at The Pas; had bought a house trailer in order to move up to The Pas; had those trailer payments to make; had his family to feed and look after; and when the bankruptcy or foreclosure took place that person was really in a serious difficult situation. It wasn't a theory that there's some little old lady that was going to be hurt. A real live person was in a situation where they were being foreclosed on because they couldn't make their trailer

payments, and there was not immediately other work available. That person was finally able to get another job but there wasn't immediately that other work available. So that person and his family were in a very serious situation.

The other example I can recall was a local person, resident of The Pas who had been working for lower wages. The construction job came along, he got a job for higher wages and bought himself a new car. Maybe that was silly but it was reputable construction company that had a sub-contract to do the work, and that person was in serious difficulty because he wasn't able to make the payments on his new car; and even if he went back to his other job it didn't pay enough for him to be able to afford to make his car payments so he lost that.

I think, Mr. Chairperson, that the vast majority of working people I know, especially the younger families and the younger people when they are starting out are just going from paycheck to paycheck. Some of them when they are getting to be my age or the Member for Flin Flon's age, have a little bit of money put away, but most of the people I know under 30, under 35 even, are going from paycheck to paycheck. This legislation was in existence to protect those people; to give them priority over the large companies who have this kind of investment that the Minister talks about. So what we are doing now is a retrogressive step, a backward step, a regressive step, that we're changing the legislation back towards where it was before when all these hardships came up, all these situations came up.

Mr. Chairperson, I don't know if I can get through to the members opposite, but one thing that really surprises me up north, is the amount of rural people from their constituencies that are working on construction up north. They come up there all the time. They work in mining, they work on construction. One of their hopes is to make enough money so they can go back and buy some land and get back into farming again. Mr. Chairperson, right now they are working, there are labouring people, and in the examples I cited those were union people, but they were not protected. Their union contract did not protect them. They were out in the cold. And it was the legislation that in fact protected them or would protect them after.

Mr. Chairperson, maybe the members opposite can understand that right now it's these constituents or their future constituents that are being hit by this and they are going to remember the attitude of this Conservative government; to heck with the wage earner; to heck with those who have to live from paycheck to paycheck; to heck with the wage earners who are interested in these big companies that have investments that are going on. That's what's happening. The members opposite should be well aware that's the kind of situation they are dealing with. These are people facing real problems that the legislation was designed to assist those people through that difficult time of when the company they had been working for was foreclosed and went bankrupt. And why this government would want to go backwards, why this government would just want to give the interest to the large secured companies against the people that depend upon their

wages, have done the work and then are unable to make their payments.

Mr. Chairperson, an important part of this legislation is to have it clear, to have it structured, and to eliminate some of the contested aspects of the payments, because, Mr. Chairperson, these people need their paycheck at the time they were normally going to get their paycheck. If the litigation and legal actions and all those things I'm not quite sure of go on and on and on, then those people are really suffering, they're really hurt.

So, one, we need this protection in the legislation, and we need it clear, so that they collect their paycheck in a reasonable time in order just to survive.

**MR. CHAIRMAN:** Mr. Brown.

**MR. BROWN:** Thank you, Mr. Chairman. Some time ago, Mrs. Westbury asked a very pertinent question, she asked what the adverse effects of wage claims priority would be, and I did some figuring on your typical small business, you're starting up in manufacturing. I would say that your average business probably would be approximately 1 million facility, of which the employer or the person going into this business would have to put up about 250,000. He possibly, with some grants which would be available to him, he would be able to get 750,000 to make up that million which he requires in a facility for manufacturing only. In addition to that he is going to be needing some stock and working capital which is probably going to go anywhere between 500,000 and a million dollars. He probably will be employing about 50 employees in that particular business. Everything that he's got he's got that invested in order to start this venture and the banks are going to go along with him, but if he was to have to make provision for wage claims priority he would probably have to have another 100,000 to 200,000, in which he would have no collateral, this would have to be cash that he would have to be able to set aside in order to guarantee wage claims priority. And I tell you Mr. Chairman, that there would be very few manufacturers that would be able to afford to start off under those conditions. As a matter of fact I would say that more than 50 percent of the small businesses that we have establishing today, and I'm talking about businesses that are starting in Manitoba, would never get established if they had to set aside 100,000 to 200,000 in order to guarantee wage claims priorities. I don't think that there is any question as far as multinationals coming in or established businesses; they can afford to set aside some money. But it's the new business establishing that we are talking about right now and there is no way that those people can afford to set aside 100,000 to 200,000 in collateral. Then we get to the question, do we want wage earners with some risks involved, or do we want no wage earners and unemployment? That's really the question that we have to answer over here.

**MR. CHAIRMAN:** Mr. Schroeder.

**MR. SCHROEDER:** Mr. Chairman, again, first of all, I would like the Attorney-General to advise us as to why we are here passing legislation which conforms

to existing law. What are we doing here? Why do we need to sit here and pass a law that says, the law is what the law is? If the courts have ruled that what is in these amendments is, in fact, what the law currently is, then it seems to me a monumental waste of our time and taxpayers' money to have us sitting here late into the night to discuss it.

**MR. MERCIER:** Mr. Chairman, the bill does contain, certainly, another amendment which has been a difficult problem in enforcement of claims. The definition of director has been one that one that has been used by people to make enforcement proceedings difficult. At the same time, as the delegation indicated the other day, the fact that the court interpretations are set out clearly in the statute should serve to perhaps avoid further litigation and cost to individuals.

**MR. SCHROEDER:** That's all fine and good, Mr. Chairman. I am sure those of us on this side would be prepared to pass this thing if all you want us to pass is the definition sections which we have already passed. Page 1 went without any argument from this side. What I'm talking about is the sections that we're dealing with, specifically, Section 7, probably from Section 7(1) through to 7(9). It is my understanding that it is the position of the government that this is not making new law, that this is not even interpreting existing law, that it in fact is an expression of what is existing law and it seems to me to be totally pointless to be here tonight. On that portion of the bill, we don't like the existing law. We would prefer a change in the existing law, but for us to be here to pass existing laws seems to be just a monumental waste of time.

There have been several comments made, I believe once by the Attorney-General and certainly once by Mr. Banman, that we are dealing with first mortgages. In fact, we are not dealing with first mortgages. We are dealing with anything from first to tenth mortgages, any mortgage will take priority as long as it is registrable in the Land Titles Office. That's the only criteria, and to suggest somehow that we're dealing with a first mortgage is absolutely incorrect. Again, if the Attorney-General simply wants this Section 7 to be enshrined to state existing law because he's concerned about priority of registered instruments, then I would suggest that he widen the right to register instruments and give that right to working people. As soon as you start a job, you can go and register a lien, and if you're ahead of the mortgage, you're ahead of the mortgage. Although that again seems to not be as good a solution as the solution of stating clearly that the position of the existing law is a position that the government should not like, and what we should do is change the existing law to give the wage earner a first priority.

We have had a bunch of examples here tonight, theoretical examples, because really when you get down to it, when you start talking about the little old lady and the farm and that sort of thing, you might be talking one employee. If you're talking about a grocery store, a corner store, or something — let's say you talk about two or three employees — so you are talking about a maximum wage claim of 6,000 if there are three employees. After that, the mortgagee would be paid out, but the wage earner would be



first. When you talk about the little people, they're not out there lending money to the manufacturer with 50 employees and that sort of thing. That comes from the big boys and they look at it very carefully.

We heard on Saturday, Mr. Chairman, that the savings and loan people in Manitoba have no evidence whatsoever that when it appeared that our law was that workers were first, that there was some kind of a drop in percentages of applications for loans approved by them, they had no evidence whatsoever that there was a difference between Manitoba and other provinces in terms of loans approved. So the suggestions that somehow this is going to stop new business enterprise have simply not been proven correct by experience, from 1975 until recently, when apparently what we thought was the law was interpreted not to be the law by the Court of Appeal.

**MR. CHAIRMAN:** Mrs. Westbury.

**MRS. WESTBURY:** Thank you, Mr. Chairperson. I want to thank Mr. Banman and Mr. Brown for supplying me with some examples of kinds of businesses where the other side of the story pertains. I also wanted to ask this, Mr. Chairperson: what happens in an occasion where — I don't suppose we can use the example, a firm similar to the Winnipeg Mortgage Exchange — where the investors are the small investors and the employees are the small, unorganized employees? Now to my way of thinking, they both are equally deserving in a case like that. What I am concerned about is that that sort of person is not covered either way in this Act. I'm interested in knowing it's not the first mortgages, it's any mortgage up to three or four at least. But I'm concerned about this. I think we have to sit here and really try not to take sides on this. We have to try to look at the overall picture and say, who could be hurt by this legislation? What I'm trying to point out is, it could be the — I hate these words like little and small — but the investor of a small amount of money. It could be the employees in a relatively small business, or factory, or farm enterprise who are going to be hurt by this, because we've already been told that the major unions will see that their employees are protected. I really have no worry about the large corporations, because I think that they will see that they are protected. But I am concerned about those people that I've just described, the kinds of people who put in their life savings into a company which is providing mortgages.

**HON. WARNER H. JORGENSON (Morris):** Like the 700 that did in the Winnipeg Mortgage Exchange.

**MRS. WESTBURY:** Exactly. I've met a lot of those people and I'm concerned about those people and I feel that somehow, Mr. Chairperson, this should go back and the legal people should come up with some way of covering the kinds of people that I've been talking about — the farmer, who wants to pass the farm on to his son; the corner store widow or widower wanting to retire and take a first mortgage so that they can live out their retirement years, and also the people that work for them and the people that invest their life savings, which are only the

proceeds from a sale of a small house or something like that, with a company like the Winnipeg Mortgage Exchange. Somehow, the bill fails there, it seems to me, and I wonder if the Attorney-General would consider taking this away and having another look at it from the point of view of those people.

**MR. CHAIRMAN:** Mr. Corrin.

**MR. CORRIN:** There's not much really to say on this, is there?

**MRS. WESTBURY:** Could I move that, Mr. Chairperson, could I get a Seconder, if I made that a motion, requesting . . . ?

**MR. CHAIRMAN:** You don't need a Seconder in committee.

**MRS. WESTBURY:** I don't need a Seconder?

**MR. CHAIRMAN:** No, there is already a motion on the table. I apologize. We're debating the amendment to remove certain words from Section 7(1).

**MRS. WESTBURY:** I can't move that both the bill and the amendment be referred. All right.

**MR. CHAIRMAN:** Mr. Corrin.

**MR. CORRIN:** There's certainly, Mr. Chairman, very little that can be added and I'd be the first to acknowledge that I think both sides have now surveyed all the relevant and pertinent criteria which should have been considered when this bill was in consideration stage. We on this side, Mr. Chairman, are not privy to the government's deliberations when it prepares bills for introduction to the Legislature. I still do not believe that — and I won't until I hear it from his very own lips and mouth — that the Minister of Labour is supportive of this piece of legislation. I simply can't believe that. It just runs completely against the grain, Mr. Chairman, and frankly I think that it would germane and of a great deal of utility to the committee to hear what the Minister of Labour has to say, because notwithstanding the fact that the Attorney-General seems to be motivated by a desire to better define, through legislation, the priorities as between registered security holders and wage earners, and notwithstanding that that concern was manifest in the report of the Law Reform Commission. I do think, and I say this with all respect, I really believe that sometimes certain people have very parochial interests. I think if you're the Law Reform Commission and you're not asked to make a policy decision, but asked to clarify and rationalize priority rights, and you're asking a group of lawyers around a table to do that, that you're going to come up with a very different sort of approach than you would if you got the Minister of Labour and the Member for Churchill and probably a lot of friends and colleagues of those two respective individuals in a room together.

I just have a feeling, regardless of what the political stripe might be, that if you had people who had a commitment biased towards working people's rights, that the legislation probably would have

looked different. I think that is the one thing that seems to be clear from this perspective, I guess, what we might call the hind end of the debate. I don't know why we can't accept that and can't accept the fact that we have to find a way to address both concerns. There simply has to be a way that we can make the legislation equitable and provide wage earners with some security because, after all, they're not in a risk-venture business, Mr. Chairman. They just sell themselves as labouring people, as working people. The commitment they receive is that they will be paid an hourly or monthly wage and when their employment dries up, obviously, the only thing they're looking for is for remuneration for what they actually did. I mean, they can truly justify that. They are not looking for 18 percent interest or 12 percent interest on the money that they earned. They just want a fair day's wages on the basis of a commitment they received for salary.

I think we all agree that that's not unreasonable. If we were working at a job and earning 5, or 6, or 7 an hour and our company went into dissolution, I think all of us would think that we should be paid money in priority to the Toronto-Dominion Bank and so and so forth. We seem to run into a problem with respect to the small creditor and I'm willing to concede that there may be the odd case — I mean, I don't want to be so restrictive from my vantage point that I can't accept the fact that there may be a small widow whose savings are tied up in a farm loan, that there might be a number of working people in the province, who have retirement funds of this sort. Perhaps that is the case. I don't think you'll find many and I think by and large you'll find that that sort of risk capital goes through the major commercial entrepreneurs. That's why we have big banks and trust companies and so on. That's what the Savings and Loan Association is there for. To represent the interests of those dozens of big institutions.

But surely, given the fact that by and large we're talking about the 80 percent of the businesses that employ, it used to be always on television, I think something less than eight employees. You know, a very small number of employees. The small businesses. We're only talking about 2,000 per employee, as I understand it. I think that's what the present law provides, I may be wrong, but I think that's all. So we're only talking about, in the case of an eight-employee firm, a small firm, of 16,000.00. So we're not really talking about a great deal of money. To me it doesn't seem sensible that if we're interested in the small business people, that we would be so restrictive of the small working people. I think we should balance the interest, there has to be a way we can strike a harmony, a balance between their interests.

You know, the Minister of Amateur Sport and Fitness indicated that this sort of legislation could be used more or less as a small business development tool. He indicated that by protecting creditors from losses, you would encourage people who provide this sort of capital to make investments in small towns and in small businesses. Well, gee, if something is not workable, you know, it's not workable. I presume that they exercise judgment on the basis of something more comprehensive that just whether they can scratch together an extra 16,000 on

liquidation. You know, given an eight-employee firm. Also, I presume they build that sort of thing into the loan. When they're thinking in terms of the interest rate and the repayment terms, I'm sure one of the things they think about is where their priority will be on liquidation and what the risk factor is. So it's not like they're not competent of looking after themselves, I think it's clear that most of them are quite capable of doing that. We know that there's mortgage insurance that will provide coverage for a lot of the lenders, so they're 100 percent covered and the consumer of the credit pays for that, pays interest on that, as a matter of fact. So really, who are we talking about? We seem to be quarrelling now, quibbling over the exception and not the rule, and I think that's probably something we can all appreciate and agree on, I would hope.

So in good faith, isn't there some way out of this bedevilling morass. Isn't there some way that we can circumvent our differences and find some common ground, surely the legislation can do something. Perhaps we can put a credit limit, maybe we can think in terms of credit limits, so that small loans would have some sort of priority. So that a mortgage lender who only advanced, say up to 25,000, could have a priority but not one beyond that. Presumably that would encompass most of these widows that presumably that we're told get involved in these sorts of transactions. You know, that seems to me to be sensible; that's a compromise. Why can't we look at that? And I would put that on the floor and I would ask quite respectfully whether members would consider that sort of alternative?

**MR. JORGENSEN:** Mr. Chairman, we've had fairly extensive debate on this particular subject and although there are differences, I wouldn't want to suggest that one group has a better case than the other. If one saw the file on bankruptcy of the Winnipeg Mortgage Exchange, you would realize how many small people are affected by a bankruptcy of this nature and the kind of people that are affected. It was perhaps one of the most difficult things that I had to deal with, because of the desperate situation that so many people were placed in as a result of that bankruptcy. So, we could go on here, I suppose, for days and days and never resolve this, but I think that eventually a decision has to be made. The government has to take the responsibility for its action, so therefore I move that the question be put, Mr. Chairman.

**QUESTION put, MOTION carried.**

**MR. CHAIRMAN:** The motion is carried so I'll put the amendment that the words after "Act" in the first line of Section 71 "but subject to subsection 6 and 7" all those words be deleted. That's the amendment.

**MOTION presented and lost.**

**MR. CHAIRMAN:** Page 2 pass; . . .

**MRS. WESTBURY:** May I now move that the Attorney-General withdraw this bill and come back with some wording or some protection or provision for the investor of relatively small amounts in order

that that concern can be removed from deliberations, because that's a very real concern and so is the concern that has been expressed by the official opposition.

**MR. CHAIRMAN:** Mr. Jorgenson on a point of order.

**MR. JORGENSEN:** Mr. Chairman, I don't think that that amendment is in order at this stage. I think the best . . .

**MRS. WESTBURY:** I'm sorry I can't hear.

**MR. JORGENSEN:** We're dealing with the bill clause by clause. I think the best technique of achieving what you are attempting to achieve is simply when we come to the reporting stage, to move that the bill not be reported.

**MRS. WESTBURY:** Oh good grief, we'll have to wait for that, okay.

**MR. JORGENSEN:** I don't think that it can fit into any of the particular clauses in this bill. So, we have to deal with the bill clause by clause.

**MRS. WESTBURY:** Okay, thank you.

**MR. CHAIRMAN:** As a relative newcomer like Mrs. Westbury, I appreciate that advice as well. It sounds reasonable to me. So I'll call the question on Page 2 pass; Page 3 pass; — Mr. Cowan.

**MR. COWAN:** On division. We want to make the point and we wanted that . . .

**MR. CHAIRMAN:** I'm sorry, on division.

Page 2 pass, on division; Page 3 pass, on division; — Mr. Cowan.

**MR. COWAN:** I just want to make a few brief comments, because I think we've been through the discussion before. I was just reading the report on the Mechanic's Lien legislation in Manitoba in regard to The Payment of Wages Act, and they suggested also in that report by the Manitoba Law Reform Commission that the priority of the Mechanic's Lien wage claims, the other Mechanic's Lien claims should be clearly spelled out in the amendments to The Payment of Wages Act. I would ask the Minister why he found it necessary to bring in 7.6 and 7.7 and yet did not find it necessary to follow through with the second recommendation of the Law Reform Commission, that the Mechanic's Lien wage claims be given clarification?

**MR. MERCIER:** Mr. Chairman, that bill, I expect, will be distributed this week.

**MR. COWAN:** So we can expect the wage earner's priority to be put even farther behind, is that what we can expect in that regard?

**MR. MERCIER:** You can expect that a bill will be distributed this week. You'll have to examine the bill when you see it.

**MR. COWAN:** On the back of the Law Reform Commission, Appendix B, they have a list of excerpts of letters received re registration of lien rights under The Payment of Wages Act, and they give seven excerpts, yet they don't substantiate those excerpts with any reference to where they came from or who was making a representation, whether it was one letter that they had taken bits and pieces out of, or whether it was seven distinct letters. I'd ask the Minister if he has any further information on that in regard to the Law Reform Commission, Appendix B, which deals with The Payment of Wages Act, it deals with this particular section 7.6 and 7.7? It's page 137 on the Mechanic's Lien Legislation of Manitoba.

**MR. MERCIER:** Mr. Chairman, I am trying to indicate to the Member for Churchill that I expect that the new Mechanic's Lien Act, Builder's Lien Act, will be distributed in the Legislature hopefully this week, in fact I'm sure it will be this week, and I think we should postpone that discussion until then.

**MR. COWAN:** I'm sorry, perhaps, Mr. Chairperson, I wasn't explicit enough in what I was referring to. This Appendix B in this particular Law Reform Commission report deals with the payment of wages and the deals with perspective purchaser mortgagee as well as mechanic's lien, mortgage lenders — I'm just reading excerpts from the different parts — Section 7 creates a danger to the systems of registration, both for real property and personal property, and so on, and so on. It deals with the matter that's before us now and I would just wonder if the Minister — I know, I imagine that he probably can't get us a reference this evening, but I wonder if he would be prepared to commit himself to try to determine where these letters came from, so that we can —(Interjection)— it's in the report on the Mechanic's Lien, but it deals with this particular aspect of The Payment of Wages Act. It deals with the aspect of The Payment of Wages Act, in regard to real property mortgage as well as purchase money security interest, Appendix B, Page 136. So I would ask him if he can check into that and report back to us.

**MR. MERCIER:** Okay.

**MR. CHAIRMAN:** Page 3 pass on division; page 4 pass — Mr. Cowan.

**MR. COWAN:** On Page 4, subsection 8(1), the amendment substitutes the words "60 days" for "6 months" in other words it halves the reporting time, the time during which a wage earner has the opportunity to report. I would ask the Minister if he could provide us with some justification, some cause for putting this amendment in the Act.

**MR. MERCIER:** Mr. Chairman, the essence of it is to avoid delay. I'm advised that the Employment Standards Division has encountered difficulties in investigating complaints that have not been filed until several months have elapsed from the time that the wages were due. They suggest that complaints for unpaid wages be filed immediately so that the Employment Standards Division can begin their investigation as soon as possible. That's why I

specifically, Mr. Chairman, today when Mr. Coulter and Mr. Martin were here, asked them whether the main thrust of their representations were with respect to this question of priority. But I asked them specifically if they had any concerns about the other amendments to the Act, and they indicated they did not. They were satisfactory.

**MR. COWAN:** So, is the Minister, as far as he is tightening up the time limit, prepared to issue some sort of statement, or prepared to issue instructions, so that workers will, in fact, know that they no longer have the six-month period during which they can make those claims? In other words, how does the Minister suppose that this information will be made available to workers who may, on the basis of previous experience, be labouring under the impression that they would have six months instead of 60 days?

**MR. MERCIER:** Mr. Chairman, that will have to be done through the Employment Standards Division, but we'll certainly request them to make that information available and known immediately.

**MR. COWAN:** Am I right in assuming that would have to be done through the Department of Labour?

**MR. MERCIER:** Yes.

**MR. COWAN:** Has the Minister consulted with the Minister of Labour in regard to the impact of this particular amendment?

**MR. MERCIER:** Well, Mr. Chairman, it's their proposal and there has been consultation between my department and their department.

**MR. COWAN:** This is the Minister of Labour's proposal, or the Department of Labour's proposal.

**MR. MERCIER:** The Department, it comes from the Employment Standards Division.

**MR. COWAN:** So they have co-operated with you in putting together this bill?

**MR. MERCIER:** Yes. That division has with respect to this section, yes.

**MR. COWAN:** But not in respect to other sections?

**MR. MERCIER:** It's a government bill, Mr. Chairman.

**MR. COWAN:** I'm certain it is. I look forward with being able to discuss it further with the Minister of Labour. I note that he was in the room earlier, but had to leave for some reason and I missed my opportunity, but I do look forward to that discussion at a later date.

**MR. CHAIRMAN:** Page 4 on division pass; Preamble pass; Title Page pass. Mrs. Westbury.

**MRS. WESTBURY:** You're supposed to say, shall . . .

**MR. CHAIRMAN:** Shall the bill be reported, Mrs. Westbury.

**MRS. WESTBURY:** Can we have a recorded vote please, Mr. Chairperson.

**MR. CHAIRMAN:** Okay, a recorded vote on the bill being reported.

**MR. COWAN:** Mr. Chairperson, if the Member for Fort Rouge isn't going to do it, I would move thereby that the bill not be reported.

**MRS. WESTBURY:** Okay, and a recorded vote.

**MR. COWAN:** I would like the motion on the record.

**MR. CORRIN:** Then you'd have to have a reverse motion to . . .

**MR. COWAN:** Oh, the motion would not be in order?

**MR. JORGENSON:** You'd just simply vote against it.

**MR. COWAN:** Well, the intent is on the record then.

**MRS. WESTBURY:** Right. That's what I found out.

**MR. CORRIN:** Then we'd have to have the reverse motion.

**MR. McBRYDE:** Mr. Chairman, on that item, the Minister of the Environment and Consumer Affairs brought in the closure motion a while ago, and he was right, we've run out of things to say on this side, and I think they've run out of things to say on that side. But I would still urge the government to reconsider. The Minister indicated earlier that this bill is only a very small part of a bunch of changes that are necessary, and members of this committee, the Member for Fort Rouge and the Member for Wellington, made proposals of how this bill could be improved to meet the concerns of both sides of the House.

I would urge the Minister — he did so today with one of his other bills, he withdrew sections of it, and I would just make one final plea to the Minister to withdraw this bill at this stage, and not proceed with this bill.

**MR. ROBERT G. WILSON:** Mr. Chairman, the reason I'm voting against the motion is because I thought there was an indication from the Minister that there was going to be a study take place within his department, or through a committee or the Law Reform Commission or whatever, to finally get something done that I've been after for a number of years, and that is to study and come up with guidelines as to priorities of all these particular liens and The Payment of Wages Act. Am I correct in that assumption?

**MR. MERCIER:** Yes, Mr. Chairman.

**MR. WILSON:** The Minister indicates yes. Mr. Chairman, in taking the word of the Minister, which through eight years of having worked with him, I

would say that I'll vote against the particular motion based on his say-so.

**MR. CHAIRMAN:** The motion is that the bill be reported, and Mrs. Westbury has asked for a recorded vote on it.

**MR. COWAN:** Speaking very briefly to the motion, I just want to point out that in our discussions with representatives that have come before this board, representing different vested interests, our discussions with the Minister, with the debate that has been ongoing for a number of weeks on this particular bill, I do not believe that we have been provided with one concrete example of why this particular bill should go forward. We have not been provided with one concrete example of where there were difficulties that would involve an individual lender. We have not been provided with details. We have asked for statistics, we have asked for information. The Minister told us the research hasn't been done. With that the case, we can only assume that this boils down not to a learned discussion, but to a discussion of philosophy, which is fair ball for this House.

But I want it to be known that it is a discussion of philosophy and that's all the government has to fall back upon. They have no facts, they have no figures, they have given us no information that would substantiate their argument. They have only given us ideology and they have only given us rhetoric. We vote against this on the basis of philosophy and we can only assume that they are voting for it because they do not want to see the wage-earner in this province have priority for their fair wages.

**MR. CHAIRMAN:** Mr. Mercier.

**MR. MERCIER:** Just briefly again, Mr. Chairman, when the Member for Churchill refers to a lack of research, I have to disagree with him, and I have to refer him to the full and thorough Law Reform Commission report. We didn't go as far as the Law Reform Commission report recommended. They recommended that all registered claims have priority over wage-earner's liens. We have not gone that far; we have only gone as far as the existing court decisions have been interpreted, the legislation, to provide only that workers' claims for wages will have priority over all claims except registered mortgages and registered personal property security interest.

This sums up the two positions, I think, Mr. Chairman, and there is really no need for the Member for Churchill to respond.

**MR. COWAN:** Mr. Chairperson, it's just a sad day when we as legislators, who are responsible for making laws, must kowtow to the courts when it comes to protecting the workers' interests in this province, and I would suggest that the Minister knows full well he could have proceeded differently. And that is a ruse, nothing more than a ruse, to try to cloud the issue. The issue is one of philosophy.

**MR. CHAIRMAN:** The question is that bill be reported.

**A COUNTED VOTE** was taken, the results being as follows: yeas 13, nays 7.

**MR. CHAIRMAN:** Bill be reported. Committee rise.