

THE LEGISLATIVE ASSEMBLY of MANITOBA
Monday, May 30, 1977

TIME: 10:00 a.m.

OPENING PRAYER by Mr. Speaker.

MR. SPEAKER, Honourable Peter Fox (Kildonan): Before we proceed I should like to direct the attention of the honourable members to the gallery where we have 85 students, Grade Six standing, of the Bedson Elementary School, under the direction of Mr. Boehm. This school is located in the Constituency of the Honourable Member for Assiniboia. On behalf of the honourable members, we welcome you here this morning.

Presenting Petitions; Reading and Receiving Petitions; Presenting Reports by Standing and Special Committees; Ministerial Statements and Tabling of Reports; Notices of Motion; Introduction of Bills.

ORAL QUESTIONS

MR. SPEAKER: The Honourable Leader of the Opposition.

MR. STERLING R. LYON, (Souris-Killarney): Mr. Speaker, a question to the First Minister in the absence of the Minister of Municipal Affairs. Can the First Minister advise what steps, if any, the ministry is taking with respect to the local government district of Churchill in the shortfall of some \$230,000 from the Federal Government on the assessment for grants in lieu of taxes for last tax year?

MR. SPEAKER: The Honourable First Minister.

HONOURABLE EDWARD SCHREYER, Premier (Rossmere): Mr. Speaker, the amount in question is the amount which we have, once again, put before the Federal Government as being the amount that would seem to be reasonably owing by virtue of the interpretation put on a statement made by the late Honourable Arthur Laing, who was Minister of Federal Public Works at the time of the inception of the Churchill Townsite Development. In the meantime, while that is being negotiated with the Federal authorities, the province proposes to make available an interim interest free or non-interest bearing loan until this matter is resolved and, of course, that is therefore an interim treatment.

MR. SPEAKER: The Honourable Member for River Heights.

MR. SIDNEY SPIVAK: Mr. Speaker, my question is to the First Minister. It would appear that the Federal Government and the Province of Quebec have signed an agreement with respect to immigration and to Quebec's participation in the immigration procedures. I wonder if the First Minister is in a position to comment on that and any implications that may have for Manitoba in the future?

MR. SPEAKER: The Honourable First Minister.

MR. SCHREYER: Well, Mr. Speaker, the matter of immigration is one which has been obviously held to be of much higher importance by the provincial authorities in Quebec for some several years. There has been, as I understand it, a willingness on the part of the Federal authorities to discuss with provinces different arrangements that might be made with respect to the immigration jurisdiction and I believe that there have been these discussions with my colleagues, the Minister of Labour and the Minister responsible for Continuing Education and Manpower. Insofar as whatever agreements may have been arrived at by the Federal authorities and Quebec, I have no particular comment to make other than to say that we will want to see the precise nature of the agreement and to what extent it would be relevant here.

MR. SPIVAK: Well, I wonder if the First Minister is prepared to acknowledge to the House that there are regional considerations that can, in fact, play a very important part when the immigration flow is required and whether at this time it would not be appropriate for the government to consider, at this stage, indicating its willingness to negotiate on the basis of the interests of Manitoba to be protected in the immigration policies in the years to come?

MR. SCHREYER: Well, Mr. Speaker, that is basically correct and there's nothing new about that sentiment. It is precisely the basis upon which the Minister of Labour here has had' I don't know how many meetings and exchange of letters with the federal authorities over the past six or seven years.

MR. SPIVAK: Then I wonder if he can indicate whether there has been a recent request by Manitoba to have the Federal Government consider an alteration for the point system so that the regional requirements of the area would in fact be a further consideration for the immigration flow coming into Canada.

MR. SPEAKER: The Honourable Minister of Labour.

HONOURABLE RUSSELL PAULLEY (Transcona): Mr. Speaker, as the First Minister has indicated, this has been an ongoing process for five or six years at least. I attended a number of meetings with my colleagues in the provinces with certain similar responsibilities when we had a change of jurisdictions and my colleague, the Honourable Minister for Continuing Education and Manpower and Immigration took over those responsibilities. Since then, we jointly have made propositions to Ottawa for a greater input by the provincial authority in the important matter of

immigration. I must say, Mr. Speaker, that really our approach has been no different than that of the Province of Quebec. My honourable friend mentions the point system which may or may not be related to the subject. Our concern was that the question of immigration into Manitoba was on a selective basis as to the needs of Manitoba, particularly in the field of employment. We have had, I would suggest, a good relationship between Robert Andras who was the previous Minister of Immigration and Manpower and that is continuing under the Honourable Bud Cullen. So it is not something new. Of course my honourable friend would have picked it out of the newspaper over the weekend, but it is not something new. We have carried on our responsibilities in a proper manner over the last number of years. It just so happens apparently that an agreement with Quebec has come before ours.

MR. SPIVAK: Well, to the First Minister. Then, on the basis of the statement of the Minister of Labour, I wonder if the First Minister is prepared to indicate that his government accepts the negotiations and the arrangement that has been arrived at between Quebec and the Federal Government.

MR. SPEAKER: The Honourable First Minister.

MR. SCHREYER: Mr. Speaker, we have not seen the actual agreement and I am sure that we will do so. I don't know what my honourable friend is alluding to unless he is asking for an opinion as to whether it is acceptable in the context of Confederation to have a somewhat different type of arrangement with respect to immigration jurisdiction. So far as the Province of Quebec is concerned, I am not prepared to answer that. If there was concrete indication that this would make some difference with respect to the prospects of Confederation, then that is a separate question.

MR. SPEAKER: The Honourable Member for Fort Garry.

MR. L. R. (Bud) SHERMAN: Thank you, Mr. Speaker. My question is to the Honourable the Minister of Finance and I would like to ask him whether the City of Winnipeg is still eligible for a forgivable loan in the neighbourhood of \$1 million for expansion of Winnipeg Stadium and whether the City has complied with the deadline requirements for applying for that loan.

MR. SPEAKER: The Honourable Minister of Finance.

HONOURABLE SAUL A. MILLER (Seven Oaks): Mr. Speaker, the City is indeed eligible to participate in the Special Municipal Loan Fund. Whether it is used for a particular project is really up to the City. The province did not specify where those funds should be used. The City will, I assume, have a list of priorities and they will have to determine where they will use, I think it is up to about \$8 million. As far as the deadline is concerned, yes, there is ample time. I think they have two weeks in which to make application.

MR. SPEAKER: The Honourable Member for Fort Garry.

MR. SHERMAN: I have another question to another Minister, Mr. Speaker. To the Minister of Consumer and Corporate Affairs and Internal Service reporting for Communications, can the Minister advise whether this past weekend's decision by the CRTC in Ottawa relevant to Bell Telephone and the Cable Television operators in Ontario and Quebec will have ramifications for cable operators here in Manitoba? In other words, will they be able to engage in delivery of other electronic services, other than simple Cable TV transmissions?

MR. SPEAKER: The Honourable Minister of Consumer and Corporate Affairs.

HONOURABLE RENE TOUPIN, (Springfield): No, Mr. Speaker, I don't anticipate that type of problem in Manitoba. Ontario does not have an agreement, that is, the Provincial Government's Department of Communication for Bell Canada don't have an agreement with Ottawa pertaining to the jurisdiction of hardware by means of Bell Canada as we have with the Government of Canada through the Department of Communication DOC. The Federal Minister for Communication, Madame Sauve, has written quite recently a letter to CRTC, giving clarification on the agreement that was signed last November by the Department of Communications here with her Department of Communication with regards to hardware, and with regards to jurisdictional matters pertaining to programming and licensing.

MR. SPEAKER: The Honourable Member for Fort Garry.

MR. SHERMAN: A supplementary, Mr. Speaker. Does that mean that the Cable Television operators in Manitoba are restricted in terms of the electronic services that they can deliver to Cable Television programming — that there are not other field of electronics services available to them — and that's simply asking for clarification, Mr. Speaker, as to the agreement between the Federal Government and the Province of Manitoba?

MR. SPEAKER: The Honourable Minister.

MR. TOUPIN: No, Mr. Speaker, I don't take it that they are restricted. I take it that they are being asked to negotiate with the Manitoba Telephone System with regards to them being the common carrier.

MR. SPEAKER: The Honourable Leader of the Opposition.

MR. LYON: Mr. Speaker, a question to the Minister of Finance. Could we have a statement from him, I don't expect this morning, but sometime before the House prorogues, with respect to the final

Monday, May 30, 1977

statement for the year-end of March 31, 1977 — that is, the statement of deficit which was asked for in Public Accounts which was not available because of too close a proximity to the end of the year?

MR. SPEAKER: The Honourable Minister of Finance.

MR. MILLER: Mr. Speaker, I'll certainly check. Whether I can give them the figure that firmly that it will be down to the very last pennies I don't know, but I'll certainly check to give them a more approximate figure.

MR. SPEAKER: The Honourable Member for River Heights.

MR. SPIVAK: Mr. Speaker, my question is to the Honourable Minister of Finance. Several months ago a question was asked with respect to the mineral acreage tax, and I wonder if the Minister is in a position to indicate the approximate percentage of people who are in arrears of paying the mineral acreage tax.

MR. SPEAKER: The Honourable Minister.

MR. MILLER: No, I am not in a position to give that. But, there was an order for return requested, I believe it's in my office and I will probably be distributing it this afternoon.

ORDERS OF THE DAY

ADJOURNED DEBATES - SECOND READING

MR. SPEAKER: The Honourable House Leader.

HONOURABLE SIDNEY GREEN (Inkster): Mr. Speaker, would you proceed to Bill No. 32.

MR. ARNOLD BROWN (Rhineland): Stand, Mr. Speaker.

MR. GREEN: Bill No. 40.(Stand) Bill No. 48.

MR. BROWN: Stand, Mr. Speaker.

MR. GREEN: Bill No. 52.

BILL (NO. 52) — AN ACT TO AMEND THE TEACHERS' PENSIONS ACT.

MR. SPEAKER: The Honourable Member for Brandon West.

MR. EDWARD MCGILL: Mr. Speaker, we have had an opportunity to examine this bill. We have listened with interest to the explanations given on Saturday by the Minister of Education. He has pointed out, and we have noted the similarity between the clauses and terms of this bill and a previous bill relating to the Superannuation Act for the civil servants. Mr. Speaker, this bill appears to have been drawn with regard for the established principles and safeguards relating to pension plans. Much of it, as the Minister has indicated, is in the nature of housekeeping. There are however, some steps that have been taken towards a form of indexing. We note too, that during the preparation and drafting of the bill, consultations were held with the Manitoba Teachers' Society and that agreement apparent: was reached with respect to the terms of this Act which amends the Pensions' Act.

So, Mr. Speaker, we feel that this bill can now proceed to Law Amendments where an opportunity will be given to discuss the matter in detail and to bring up any matters which may appear to require further explanations at that time.

QUESTION put MOTION carried.

BILL (NO. 65 — AN ACT TO AMEND THE EMPLOYMENT STANDARDS ACT (2)

MR. SPEAKER: The Honourable House Leader.

MR. GREEN: Mr. Speaker, would you please call Bill 65.

MR. SPEAKER: Bill 65, the Honourable Minister of Labour.

HONOURABLE RUSSELL PAULLEY (Transcona) presented Bill (No. 65), An Act to amend The Employment Standards Act (2) for second reading.

MOTION presented.

MR. SPEAKER: The Honourable Minister.

MR. PAULLEY: Mr. Speaker, in introducing Bill 65, I realize that there has been one or two comments made in respect to the bill by both labour and management, and it seems to be possibly one of those occasions where one is damned if he does and damned if he doesn't. Of course, that is the position that we have to take from time to time if we are going to endeavour to carry forward with our responsibilities. And, of course, in the final analysis, the decision as to the adoption or rejection of Bill 65 rests with the government and the Assembly.

It seems to me, Mr. Speaker, that there has been, at least to some extent, a misinterpretation of the objectives contained within Bill 65. And this bill, Mr. Speaker, comes before the Legislature following a period of controversy and debate over the issue of compulsory overtime. I suggest, Sir, that no point would be served here in reviewing the controversy since it is well known to anyone and everyone who followed events over the past months. And of course obliquely, I am referring to the incident in my own constituency that has been ongoing for a long period of time.

I want to repeat, Mr. Speaker, what I said on the introduction to the Committee on Supply, that I, as

Monday, May 30, 1977

Minister of Labour, was involved in that industrial dispute long before the public was really aware of what was going on, dating back to about January, well over a year ago and that we have had tried to resolve the differences. And I refer to the incident, Mr. Speaker, because I am conscious that it creates a need to spell out in the clearest possible terms what this proposed legislation means. Before doing so, let me outline the main principles and rationale underlying the government's proposals.

The first I should mention, Mr. Speaker, is our conviction that overtime work, while desirable to some workers, and necessary in emergency circumstances, is not, and I repeat, is not a practice which should be encouraged. When overtime is extensive and a regularly recurring feature of jobs, it can create obvious undesirable effects on the social and family lives of workers. It can increase the possibility of accidents and it worsens unemployment problems by allowing employers to have work done by existing staff at a less expensive alternative to hiring additional workers.

The amendments contained in Bill 65, therefore, goes far beyond the issue of compulsory overtime, the main focus of the controversy these past months. The bill seeks to place overtime under much stricter control and to discourage its practice by making it more costly. We could have, Mr. Speaker, adopted the legislation which is presently in effect in the Commonwealth of Kentucky, one of the United States, which forbids any overtime at all in public works unless it is as a result of a national or a state emergency such as flood, fire, etc. And, as I say, the State of Kentucky is the only jurisdiction that I was able to find that had an absolute prohibition on any overtime in the public sector and once that is in effect, it could conceivably be extended to the private sector as well. I say quite frankly, Mr. Speaker, after having made an investigation into the laws in practice in other jurisdictions, I did not think that there is reason why the Province of Manitoba should bring about a complete ban on overtime. I want to say, Mr. Speaker, that in the law of the State of Kentucky, there is no provision for voluntary or compulsory overtime except as I mentioned in a national disaster.

The second principle in the bill, Mr. Speaker, is that the government believes that it is wrong in principle that an employer should be entitled to compel employees to work overtime. The bill, therefore, removes language from the existing Act which appears to confer upon employers this right. The bill goes further, Mr. Speaker, to expressively state that what are commonly referred to as "Management rights" shall not be deemed to include the right to compel overtime work from employees.

I am aware of the fact that in some jurisdictions in this nation of ours, that there are provisions for a limited amount, in some cases, and no limits in others, whereby the employer can demand of its employees compulsory overtime. As a matter of fact, I believe that recent amendments to the similar legislation to our Employment Standards Act in Manitoba, that in the Province of Saskatchewan, there is a provision whereby an employer can demand of his employee four hours overtime per week. I confess that during the deliberations as to the contents of Bill 65, some consideration was given to this. It is my understanding that in the Province of Ontario, there is a capping insofar as compulsory overtime is concerned of approximately eight 8 hours per week which we similarly rejected, Mr. Speaker, having an aversion to compulsory overtime.

I also wanted Mr. Speaker, to indicate to you and to members of the Assembly that there are many collective agreements in vogue in Manitoba at the present time jointly arrived at in good faith between management and labour, that contain provisions which give to management the right to impose a certain amount of compulsory overtime after due notice in most cases. I want to indicate, Sir, that what I have just referred to as parts of collective agreements have been entered into by both the so-called Canadian independent unions and those affiliated with the Canadian Labour Congress and the Manitoba Federation of Labour. So it is not just one-sided. I have documentation, Sir, to establish the point that I am endeavouring to make. In normal circumstances, therefore, Sir, overtime work would henceforth be on a voluntary basis, the result of employee choice. It should be recognized in connection with this point, that many employees do in fact prefer the opportunity of overtime work and under the bill, they will be able to continue this choice. Workers engaged in projects in isolated areas are a typical example but others in established communities of the Province may also continue to prefer additional income from overtime work.

The third main feature of the legislation is the role for collective bargaining. Under the amended act, unionized employers will be obliged, as they are now, to adhere, at least as a minimum, to the standard hours of work in the legislation, as well as to the newly established overtime rate. I'll make reference to that directly in a moment or two. After all, Sir, these are minimum standards and all workers under the Act should be entitled to them.

And need I remind the members of this Assembly that it was this government that has established as a minimum standard in the Province of Manitoba the 40 hour week, eight hour day. Prior to becoming the Government of Manitoba we had a 48 hour standard work week for males, a 44 hour standard work week for females. One of the first amendments that were made to the Employment Standards Act was to equalize the standard work week between male and female at 44 hours per week. And then a year or two ago, Sir, a further amendment established the minimum standard for

Manitoba — the 40 hour work week, eight hour day, subject to consideration by the Labour Board of a variance of those hours.

And yet, Mr. Speaker, I have been criticized from coast to coast, as the Minister of Labour for Manitoba, for not adhering to the principle of a 40 hour work week. I have received many letters, including those of my own particular union, condemning me because, in their opinion, I was sitting on my butt during all this controversy. I reject that completely, Sir, because I had the honour, as Minister of Labour in Manitoba, to introduce the principle of the 40 hour work week which even today, Sir, only applies in the Federal field with many exemptions and I believe two other provincial jurisdictions. This is the type of criticism that we were under over the past year or so.

I, too, was criticized, Mr. Speaker, because I didn't stand up in this Assembly and make direct reference to that industrial dispute. But I could not, in my opinion, Mr. Speaker, do so because I was privy to private, privileged information as to how negotiations were going on particularly at the height of the fervor in Transcona. Also the strike in question had been going on for five months before many of the trade unions and many segments of the public, including the politicians, knew that there was a strike on. They only knew it when management attempted to fight back and, of course, I was then subjected to the accusation that I was pro-management.

I can now say, Mr. Speaker, that I had management in my office on at least two occasions at which time I told them that I did not agree with their approach, that they should change it. There was some softening in the position of management in that respect. Credit? No. Not that I was seeking credit but I realized what I thought was my responsibility to stay out because of the reports of a confidential nature that I was receiving and because of the fact that I was meeting with both sides to that particular complaint. And I do say, and I reaffirm that collective agreements that I have indicate many unions do make provision for compulsory overtime under their control.

So I say, Mr. Speaker, now I can indicate some of the involvement that I had. Employers might negotiate collective agreements with trade unions providing for a certain amount of compulsory overtime and this adheres to our basic principle, Mr. Speaker, that we believe in free collective bargaining, and always have, and yet today we are criticized because we make a provision for that to be achieved under collective bargaining and accusations are being levied toward us because of some people's opinion that we could have a duplication of the incident in Transcona.

Mr. Speaker, we can have a strike at any time on any issue. We've had strikes, prolonged strikes on the question of wages. As a matter of fact, there is one organization that has been out on strike well over a year not on the basis of compulsory or voluntary overtime, which has been the pinpoint of the industrial dispute that I refer to, but because of wages. There has been an ongoing strike of a nature with the Winnipeg Tribune for about 15 or 20 years because of non-recognition. Nothing to do with compulsory or voluntary overtime. So I say, Mr. Speaker, to those who are attempting to read into what we are attempting to establish for the rights for negotiations had better look in the history books and better find out other basic reasons for strike because it is not contained in this.

I have had some labour people, some management people say to me, "Well, Mr. Minister, aren't you giving them an opportunity to have a strike based on this issue of compulsory overtime?" I say that when, in good faith, management and labour sit down at the bargaining table and arrive at a conclusion, and they can arrive, to me it's idiotic and unfair for those critics to say because you make provision in your bill for collective agreements — or agreements, not necessarily collective agreements — between management and the individuals to work overtime, I say that is democracy. I say to my critics in that particular field, would they like me or this government to ban all overtime? I am sure the answer would be no. In other words, while there may be compulsory overtime under collective agreements but, by definition, Sir, this would only be the case where a union had explicitly agreed to such a provision. The role for collective bargaining is important because it is a means by which individual employers and unions can design mutually acceptable provisions appropriate to the specific needs of employers on one hand and the desires of the employees on the other.

A fourth aspect of the legislation which should be noted, Sir, is that it acknowledges that emergency circumstances may create the need for an employer to be able to compel overtime work from his employees. It is easy, Sir, to envision situations where the breakdown of a plant or equipment, accidents or other unforeseen and uncontrollable factors would create circumstances justifying employers to require overtime. The present legislation also has a provision for such possibilities as it does as well for cases of declared, public emergencies. The differences we are introducing is a requirement that emergency overtime work be paid at overtime rates instead of straight-time rates; and the requirement that emergency work required by an employer be reported to the Manitoba Labour Board for review. These are examples of the broader and stricter controls we are placing on overtime work to which I referred. We have no firm records, Mr. Speaker, at the present time so far as control or knowledge really of the overtime work insofar as individual plants are concerned, but in a moment or two, I want to refer to the statistics that I have in reference to the incidence of overtime in Manitoba.

The final feature of the legislation, Sir, is the flexibility it retains from the existing Act, enabling some variations in the standard hours of work; enabling such things as the compressed work week schedules, averaging in cases of shift work and adoption of other standard hours where those set out in the Act apply. Clearly, flexibility is desirable and, therefore, provided for under the legislation but it is flexibility with control because the Labour Board — not the Minister — will have the final say on variations.

Now, let me review the provisions of the bill in more detail. First of all, Sir, it provides for an increase in the minimum overtime rates of pay from $1\frac{1}{2}$ times regular wages to $1\frac{3}{4}$. I think, Mr. Speaker, that I have been negligent in not up until now indicating why reference is made to $1\frac{3}{4}$. It had been drawn to my attention on a number of occasions that when computing overtime rates, fringe benefits were not included in computing the overtime rate. In our opinion, they should have been. We could have quite easily simply brought in legislation, Sir, that said overtime rates will be computed on the basis of the normal rate plus fringe benefits. In order to try and save the necessity of continuous computerization, we arbitrarily — and I say arbitrarily advisably — came to the figure of $1\frac{3}{4}$ instead of $1\frac{1}{2}$. I am prepared to take under consideration with my colleagues, an amendment to that part of the Act to spell out possibly more clearly than the $1\frac{3}{4}$, an amendment whereby if fringe benefits are included in the base upon which overtime rates are computed, and equate $1\frac{3}{4}$, that the rate will be $1\frac{1}{2}$.

We want to be assured that the fringe benefits are included in the base. I feel, Mr. Speaker, that if that is done, our objective where there is an input of the fringe benefits now, we would not require $1\frac{3}{4}$ in addition to that. We have no desire to place any constraints on our employers of added costs but we were aware of the fact that in some cases fringe benefits were included in the base rate and others that they were not. It is suggested that this will make overtime more costly to an employer, and in view of that immediate protest we have heard representatives of the employers were expected and understandably.

But the first point I made in introducing this bill was that we intend to discourage overtime. At the present time when an employer compels overtime of an employee, he is getting his labour at lower costs. The rate is not $1\frac{1}{2}$ times the unit labour costs associated with regular working hours because, in most cases, or many cases, fringe benefits are excluded. Those items which added to wages add up to a total compensation package for employees doing regular work. Were it possible to administer legislation which retains the $1\frac{1}{2}$ but have it apply to all items in the compensation package, we would have considered introducing such a provision, and I now indicate to the House that we are prepared to do that. That rate, Mr. Speaker, would come effective on the 1st of September so there would be an ample period of time for assessment.

Another provision of the bill, Mr. Speaker, that I have not yet noted, concerns the construction industry. This bill provides that legislation shall apply, including the provision of voluntary overtime to construction industry employers and employees except that as is the present case, the standard work hours for the construction industry shall be those established by regulation under The Construction Industry Wages Act. They vary as to the standard of work week.

This completes what I was just saying at this stage by way of explanation of the provisions of the bill, Mr. Speaker. However, before taking my seat, I think that it is only fair and proper for me to attempt to indicate to members of the House, what really does this mean. I have had complaints from various industries that this is going add, this one and three-quarters will add materially to their costs because — (Interjection) — Yes, the consumer will pay it in the end if the consumer has to, and that's the point that I want to establish now.

When this was first noted, Mr. Speaker, there was the point raised by my honourable friend, the Member for Swan River who is unknowledgeable in my opinion of the affairs of labour and to some degree, unknowledgeable of the impact, so for his information, I want to indicate to him the impact of overtime and where it is being worked at the present time.

I indicate, Mr. Speaker, that one of the groups that have written me complaining of additional costs, because of the incidence of overtime is the garment industry. Statistics, Mr. Speaker, indicate to me — and these are the latest that I have available — that there was no month at all, recently, in which the average work week in the garment industry exceeded 38.5 hours per week. The time and-a-half provision or the time and three-quarter provision does not come into effect until after 40 hours. And yet, Sir, the average for that industry is 38.5 hours per week. And, Sir, one chart that I have goes back to 1970, there's been a continuous reduction in the work week ever since. The last statistics that I was able to garner indicate that pretty well only in the field of construction and highways engineering was there an average of greater than 40 hours per work week and the construction industry is exempted in accordance with the number of hours that they have under the construction wages regulations.

So I say, Mr. Speaker, if one looks at statistics and I've had this opportunity — I believe the Honourable Member for Fort Garry asked me the question in the question period some stage back

whether we'd look into it and I had to confess at that time that I had not, and that we don't keep those records in the Department of Labour. But I have since, and I would say, that if we go by the average, they won't be required to pay any overtime because the average is less than the 40-hour per week at the present time in the industries referred to. But what if they did, Mr. Speaker, what if they did? What is the effect of the increase of one and-a-half times to one and three-quarter times? Obviously, there would be no effect at all if they adhered to the standards of 40-hour work week. Supposing an employer required a 44-hour work week, the increase in cost of one and-a-half to one and three-quarters would be 2.5 percent; to a 48-hour work week, or eight hours overtime, five percent increase in costs.

I indicate, Mr. Speaker, to the point raised by my honourable friend, the Member for Fort Garry, that we have taken close looks at the problems raised by management. I realize, Mr. Speaker, that on surface, it looks as though we're going beyond everybody else in Canada. I have tried to explain the reasons we have behind these proposals. As far as the difference between one and-a-half and one and three-quarters, I invite anyone who wishes to make representation — and I am sure there will be a number — to attend at the Committee where this bill will be referred to, to make their representations.

I want to reiterate, neither I nor my colleagues are desirous of making any unfair imposition on industry of all descriptions in the Province of Manitoba. We are cognizant and we recognize the contributions that they make. We recognize a firm adherence to the principle of free collective bargaining. We recognize that we were one of the first provinces in the Dominion of Canada that introduced the standard 40-hour work week with an eight-hour day, one of the most progressive steps taken up until that time. We recognize that because of certain events that have taken place in this field, there were problems, but we also recognize, Sir, that those problems can be overcome if, in good faith — and it can be under this legislation — if, in good faith, management and labour respectfully bargain with conscience.

One other feature, Mr. Speaker, I want to introduce or to make my colleagues aware of, is that there is a provision in Bill 65 that whereby the Crown is treated the same as the private sector in that where there is an emergency declared by the Lieutenant-Governor-in-Council, the overtime rate which would be compulsory, as necessary, would apply to the Crown the same as it would in emergency work in industry. At the present time, Sir, where the Lieutenant-Governor-in-Council declares an emergency, it will be at straight time. We feel, as a general policy, that the rate should be that applicable to any other overtime in the province.

I realize, Sir, and members of the Assembly, that in presenting Bill 65 for the consideration of the Assembly and those concerned, that there will be differences of opinions. As I said at the outset, I am prepared to be damned for doing and damned for not doing, but I think that this is a reasonable, progressive and forward step which can be another piece of legislation conducive to harmony in Manitoba. It will not achieve everything; but as I look over the picture, I think that I and my colleagues in government, have come to a reasonable piece of legislation that should be accepted by the House. And in saying that, Mr. Speaker, I join with my colleague, the Minister of Mines and Natural Resources in a declaration that he has made on numerous occasions, that if possible, we should not have to legislate as we are doing again here with the Employment Standards Act. I have stated in this House on a number of occasions that as far as I am concerned in the field of labour, we don't legislate against the good employer, but we have to protect the employees where possibly the employer is not as good as he or she should be.

I have taken quite a while, Mr. Speaker, to introduce this bill. I hope that I have clarified a number of points of concern. I invite free participation of course, of all of the Members of the Assembly. I invite management and labour groups to appear before Committee and give us the value of their viewpoints. Thank you kindly.

MR. SPEAKER: The Honourable Member for Fort Garry.

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

MOTION presented and carried.

SECOND READINGS

BILL (NO. 6) — AN ACT TO AMEND THE JURY ACT

MR. SPEAKER: The Honourable House Leader.

MR. GREEN: Mr. Speaker, we are going to proceed with Bill No. 6.

MR. SPEAKER: The Honourable Attorney-General.

HONOURABLE HOWARD PAWLEY, (Selkirk) presented Bill No. 6, An Act to amend the Jury Act, for second reading.

MOTION presented.

MR. SPEAKER: The Honourable Attorney-General.

MR. PAWLEY: Mr. Speaker, this bill deals with amendments to the Jury Act respecting the

conditions for disqualifying or exempting persons from jury service. The present Act is outdated, outmoded in certain respects, such as those regarding the exempting of Clergmen, every woman who is a vowed member of religious order, and all Federal and Provincial civil servants. These particular features would be modified by exempting those who belong to a religion which requires jury service as incompatible with its practices, and by narrowing the restrictions in civil servants to those involved in the Courts in any way; all aspects of law enforcement, members and officers of parliament in the legislature, and all employees of the Federal Department of Justice, and the Department of the Attorney-General. The present disqualification of individuals convicted of or currently charged with indictable offense would be modified to the following categories: Persons convicted within the past five years or currently under charge of an offense for which the punishment could be a fine of \$1,000 or imprisonment for at least one year. Also individuals would be disqualified from jury service if they are unable to understand, to speak or read the language in which the trial is being conducted. The allowable maximum age for jury service presently 65 would be eliminated. Individuals over 75 could secure exemption from jury service through application. Others who could similarly obtain exemption would be those who had served on a jury within the past two years. Another provision of the proposed legislation would allow a party to a Civil Court Action to disqualify up to three jurors without cause.

MR. SPEAKER: The Honourable Member for Gladstone.

MR. JAMES R. FERGUSON: Mr. Speaker, I beg to move, seconded by the Honourable Member for Morris, that debate be adjourned.

MOTION presented and carried.

BILL (NO. 72) — AN ACT TO AMEND VARIOUS ACTS RELATING TO MARITAL PROPERTY

MR. SPEAKER: The Honourable House Leader.

MR. GREEN: Bill No. 72

MR. SPEAKER: The Honourable Attorney-General.

MR. PAWLEY presented Bill No. 72, An Act to amend Various Acts Relating to Marital Property, for second reading.

MOTION Presented.

MR. SPEAKER: The Honourable Attorney-General.

MR. PAWLEY: Mr. Speaker, in connection with this bill, this is a further bill relating to the Marital Property and Marital Maintenance Act. Firstly, I would point out that this bill provides for the increasing of the basic estate to be awarded to the surviving spouse from the present \$10,000 basic under the present legislation to \$50,000 basic. The bill to provide various acts pertaining to marital property would further grant the surviving spouse half of the value of an estate beyond the proposed basic entitlement of \$50,000 regardless of the number of children. At present, if there was more than one child, the surviving spouse is only entitled to one third of the additional estate. Also an amendment to the Wills Act provided for in this bill, would render null and void any bequest to a divorced spouse made prior to the divorce. The Wills Act will continue to provide for the automatic revocation of a will made prior to marriage, except when made in anticipation of that marriage.

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

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

MOTION presented and carried.

MR. SPEAKER: The Honourable House Leader.

MR. GREEN: Bill No. 79, Mr. Speaker.

MR. SPEAKER: The Honourable Attorney-General.

MR. PAWLEY: Mr. Speaker presented Bill No. 79, An Act to amend The Real Property Act (2), for second reading.

MOTION presented.

MR. SPEAKER: The Honourable Attorney-General.

MR. PAWLEY: Mr. Speaker, as honourable members will recognize, this bill is a bill which provides the mechanics for enforcing the policy that is set out in Bill 56, namely the Farm Lands Protection Act, which is presently before the House. The Farm Lands Protection Act limits the amount of farm lands that may be acquired by individuals as well as by corporations. In order to properly ensure that the provisions of that Act will be complied with it is essential that we through the District Registrars of the various Land Titles' offices, be authorized to require certain information relating to land holdings by individuals and corporations at the time when a transfer of land is being filed in the land titles office.

Basically the District Registrar will be empowered to refuse to register a transfer or deed of conveyance or a caveat based on an agreement for sale, unless the appropriate instrument is accompanied by a statutory declaration executed by the purchaser or transferee, setting out those

things THAT ARE ENUMERATED IN THIS BILL.

The Act will not apply to the disposition of any interest in mines and minerals, to Crown corporations or corporations that are agents of the Crown, to municipal corporations, school boards or hospital districts, to lands exempted by the regulations. The Lieutenant-Governor-in-Council is empowered to make regulations exempting any class of land or lands in specified parks of the province from the application of the proposed new section 82. As well, under certain terms and conditions, a corporation may be exempted from the requirement to provide the information required by the information required by the Statutory Declaration. The Statutory Declaration which must accompany the transfer of land or the deed of conveyance will not be filed with the transfer or deed but will be transmitted by the District Registrar to such persons as the Attorney-General may designate, presumably to some person in the Department of Agriculture responsible for monitoring the various land transactions that will be taking place.

This pretty well completes the detail of this bill and I wait the discussion in the House pertaining to it.

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

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

MOTION presented and carried.

MR. SPEAKER: The Honourable House Leader.

MR. GREEN: Bill No. 56, Mr. Speaker.

MR. SPEAKER: Proposed by the Honourable Minister of Agriculture. The Honourable Member for Birtle-Russell.

MR. GRAHAM: Stand, Mr. Speaker.

MR. GREEN: Bill No. 60.

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

MR. GRAHAM: Stand, Mr. Speaker.

MR. GREEN: Bill No. 61

MR. FERGUSON: Stand.

MR. GREEN: Bill No. 67.

MR. FERGUSON: Stand.

MR. GREEN: Bill No. 78

MR. FERGUSON: Also stand, Mr. Speaker.

MR. GREEN: Well, Mr. Speaker, does anybody see anything on the Order Paper that I don't see that we can proceed with?

MR. SPEAKER: The Honourable Member for Morris.

MR. GREEN: We could go into Law Amendments Committee.

**PRIVATE BILLS - BILL (NO. 37) — AN ACT TO AMEND AN ACT TO
/ INCORPORATE HELLER-NATOFIN (WESTERN) LTD.**

MR. WARNER H. JORGENSEN: If the House Leader wants to move one of the Private Bills, I am prepared to allow Bill No. 37 which stands in my name to go on to Committee. I don't see anything in that particular.

MR. GREEN: Call it and then you can do it. Bill No. 37, Mr. Speaker.

MR. SPEAKER: The Honourable Member for Morris.

MR. JORGENSEN: Mr. Speaker, I don't see anything in this bill that would cause us to have any great concern in preventing it from getting into Law Amendments Committee or whatever Committee that the government intends to send it to so, therefore, I am prepared to allow it to go to Committee at this point.

QUESTION put MOTION carried.

MR. SPEAKER: The Honourable Minister of Mines.

MR. GREEN: Mr. Speaker, I would like to suggest, we have enough — (Interjection) — 69? Yes, we can hear you speak at this time. Bill No. 69, yes.

PUBLIC BILLS

BILL (NO.69) — AN ACT TO AMEND THE PUBLIC SCHOOLS ACT

MR. SPEAKER: The Honourable Member for Brandon West.

MR. MCGILL presented Bill No. 69 An Act to amend the Public Schools Act for second reading.

MOTION presented .

MR. SPEAKER: The Honourable Member for Brandon West.

MR. MCGILL: Mr. Speaker, the purpose of this bill is to enable the Brandon School Division No. 40 to elect half of its school trustees each year. They have now a total of ten trustees and under the terms of the present Act, they would be elected every three years at the time that the municipal elections are held. This was the position taken by the Brandon School Division in compliance with this arrangement about three years ago, however, recently one year ago, the school division decided that they would prefer a system that would call for the election of half of the trustees each year and so the bill has been presented in this way in order to permit the School Division of Brandon to operate in this fashion and to have its elections every year to elect half of the school board. I understand that they prefer this system because they feel that there is an insurance under it of some continuity of experience on the school board and that the difficulty which they foresee of having a completely new board elected, as might happen under the terms of the present Act, would then be eliminated.

The drafting of this bill, Mr. Speaker, provided some minor and technical problems and during the drafting, inadvertently some of the rights which now are held by other school divisions were removed from the Public Schools Act so in order to correct this problem, it will be necessary at the Committee stage to introduce certain amendments. After the bill had been drafted, it was discovered that in the drafting and in the removal of certain clauses, some rights which now are possessed by other school divisions were taken out of the Public Schools Act. This was not intended and at Committee stage it will be corrected through amendments to the present bill.

Mr. Speaker, with those assurances to the House, I request that the request of the Brandon School Division be now considered and that this bill be passed along to the Committee stage where it can receive the clause-by-clause treatment and the necessary amendments.

MR. SPEAKER: The Honourable Member for St. Johns.

MR. SAUL CHERNIACK: Mr. Speaker, I don't know whether members of our government have looked at this bill and do or do not intend to speak on it but I would like to make some comments based only on what I have heard from the Member for Brandon West and from my own experience in municipal affairs and in school boards.

I think that one sentence by the Member for Brandon West sort of alerted me to this proposal and that was that the school division believed it would be better to have the alternate method of alternating years. I knew he couldn't mean the school division; he must mean the school trustees because it would be only the school trustees who would make the decision and would ask him to propose the bill and it may not necessarily be an indication that it is in the best interests of the school division, if indeed the school trustees think it to be in the best interests of the school division.

I used to believe in this concept of continuity and I was a member of the Winnipeg School Board where half the board was elected each year for a two-year term and I was a member of the Winnipeg City Council where half the City Council was elected each year for a two-year term and I also saw what happened when there was an election of all the members of council at one time. And, Mr. Speaker, I am absolutely satisfied that the desirable aspects of continuity are easily maintained because very often, I would say usually, people are re-elected — why that even happens in the Legislature — to an extent, not necessarily to maintain a majority but at least to maintain the assurance that there will be enough elected to be able to pass on a continuity. On the other hand, I am not convinced that continuity is really the desire except maybe for those people who want to be re-elected and that when you have a proper administration — and I have no reason to think that Brandon has an administration that is not able to translate to new school trustees the problems that were apparent in a previous year — that if the school division voters would like to see a real change in the school board, they are better able to do so if there is an election of the entire board at one time. That is why I say that I was alerted to this by the statement by the Member for Brandon West that it was thought that the school division believed it desirable. I really think it is school trustees who think so.

I know that this debate has taken place time and again over many years and I do not recall which administration and when it was changed to have an annual election for the entire board compared with the previous arrangements, but I think it was done after considerable thought and I think that if it were a desirable thing, it wouldn't be desirable for the school division at Brandon alone; if it is desirable, it is desirable all over because the problems are not unique to any one school division. That's why I sort of wonder that the principle isn't one that shouldn't have been presented to be considered for all school boards and indeed for all municipal councils rather than to select one school division or possibly one council and have a different kind of an arrangement, because I think we would have to be clear as to why it is that there is a proposal that makes that kind of a distinction for any one part of Manitoba. I think that if the argument is persuasive that there ought to be this kind of split-voting again, then the cogency of it ought to pass on to all other boards and therefore it should be considered as part of the overall in Manitoba.

I would, therefore, think that this is not a good idea. Personally I don't agree that it's a good idea generally; secondly, I don't think it is a good idea for Brandon only and if it is good for Brandon, then it might be good everywhere else and therefore it should be a general application across the

province. My inclination would be to see this matter dropped for this year and let it be studied for future years again in the light of the benefits for the entire province or boards within the province.

I understand that possibly the election normally takes place this coming year and would then fix the board for a period of time but I don't think that there can be any great emergency. The only argument I heard was that it is good for continuity and there would certainly be continuity if there is an election now and that board sits for a period of time. I don't see the urgency and I do see that it should have a much more comprehensive review as it would apply across Manitoba rather than just in Brandon.

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

MR. GRAHAM: Well, Mr. Chairman, I have listened to the words of the Member for St. Johns and also the remarks of the Member for Brandon West. I just want to raise one point that has been brought to my attention both in the municipal and the school field.

When we changed our legislation to go to the three year system of electing trustees and councillors and a problem that probably was not foreseen at that particular time — that is the increasing degree of mobility that exists in society today. That people are not maintaining the same community stability that existed in the if you look at the municipal elections and the by-elections that are having to be called to replace councillors that have moved years. because we have elections every three This argument I have heard from two or three municipal officials, that if elections were held every fall and half of the council was elected every fall or half of the school board was elected, many of these by-elections would be unnecessary because the term would be filled at that standard date. But instead, because elections may not be for two more years they have to hold a special by-election.

The argument that the Member for St. Johns puts forward I think is probably one that he may well want to believe in but, at the same time, I think we have to consider and I have to agree with him that maybe we shouldn't just be treating Brandon in isolation, maybe we should be looking entirely at whether or not we did make a mistake when we changed municipal and school elections to a three year system without elections in between . I have to say that I don't see anything wrong with an experimental system and if Brandon, in this particular case, wants to try another system I think that it would well be worth the attempted experiment to see whether or not it does eliminate some of the problems that I have suggested we are now getting in the field of municipal and school politics because we go to a three year term of office and that is caused by the high degree of mobility that exists in society and the fact that people want to change their residence from one area to another. And the added fact that in most municipal corporations we have rather stringent boundary regulations concerning the area that a person must live in if he wants to serve as a representative — restrictions far greater than exist in the field of, for instance, provincial politics where there's no regulation whatsoever that a member must live in the constituency that he represents. But in municipal and school in many cases the person must live within the boundaries of the area that he wants to represent. I know some municipalities have gone to a representation at large, but there are not too many of them.

I just wanted to raise the issue at this time that because of the mobility of society, we are finding many people who have put their name forward in good faith and in their efforts to serve the public, find that maybe 12 months later because of the nature of their job they have to move, they have to resign and cause a special by-election, which is much more costly than would occur if elections were held every year.

MR. SPEAKER: The Honourable Member for St. Johns have a question?

MR. CHERNIACK: Yes, please Mr. Speaker. Would the honourable member not recognize by reading the bill that he is suggesting an experiment of a change back to a system which has not yet been changed completely? Because the people who are now sitting in the school division of Brandon are still sitting on the alternate method and this bill is designed, I believe, to bring back a system which has not yet been changed. So that therefore it is the new system they are trying to change before the new system has been brought into effect and they are therefore attempting to go back to something which they have not yet completely given up?

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

MR. GRAHAM: Mr. Speaker, as is the case in many debates that go on in this chamber, quite often a person is prompted to stand up in debate in reply to suggestions that have been put forward by a member from the other side of the House.

MR. SPEAKER: The Honourable Minister for Municipal Affairs.

HONOURABLE BILLIE URUSKI (St. George): Mr. Speaker, I beg to move, seconded by the Minister of Agriculture, debate be adjourned.

MOTION presented and carried.

MR. GREEN: Mr. Speaker, I want to propose that the House adjourn and that we go to Law Amendments Committee to deal with bills which we have heard representations on and that could be proceeded with clause by clause. But in doing so, Mr. Speaker, I would want to ring the division bells

Monday, May 30, 1977

tell ALL HONOURABLE MEMBERS OTHERWISE IT WILL BE A MATTER OF RUNNING AROUND AND COLLECTING THEM. So would you consent, Mr. Speaker, to the division bells being rung to assemble honourable members so that I can tell them what we are proposing to do.

MR. SPEAKER: No problem. Ring the bells, please. The Honourable House Leader. .

MR. GREEN: Mr. Speaker, for explanation to the honourable members, we have completed the material on the order paper and I am proposing that we adjourn and go into Law Amendments Committee, we have almost an hour, to deal with bills which are before the committee and which representations have been heard on. So I asked permission of the Speaker to call the members so they would all be notified. So I move, Mr. Speaker, seconded by the Honourable Member for Lakeside, that the House do now adjourn.

MOTION presented and carried.

MR. SPEAKER: The House is adjourned and stands adjourned until 2:30 this afternoon.