

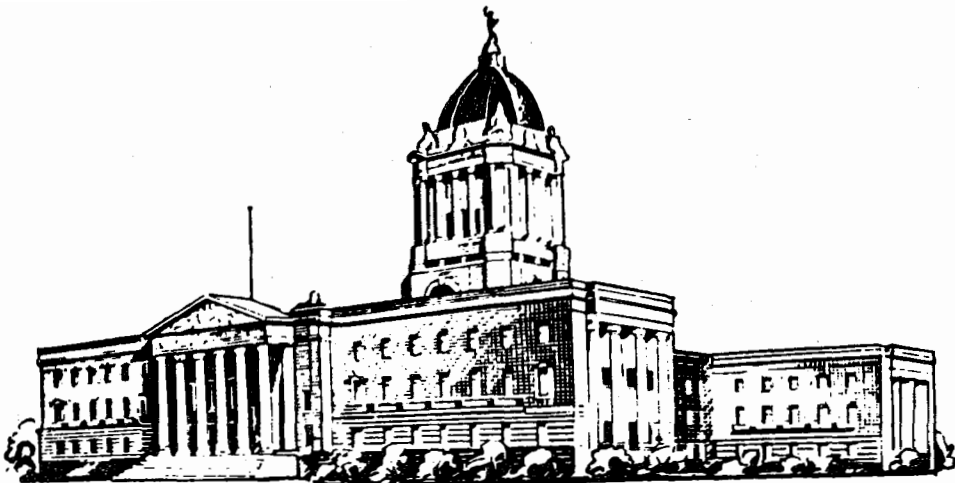


Legislative Assembly of Manitoba

**HEARING OF THE STANDING COMMITTEE
ON
STATUTORY REGULATIONS AND ORDERS**

Chairman

**Mr. D. James Walding
Constituency of St. Vital**



TUESDAY, June 14, 1977 11:40 a.m.

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TIME: 11:40 a.m.

CHAIRMAN: Mr. James D. Walding.

MR. CHAIRMAN: Order please. We have a quorum, gentlemen. The Committee will come to order. Three bills before the Committee this morning are No. 60, The Family Maintenance Act; No. 61, The Marital Property Act; No. 72, an Act to amend various Acts Relating to Marital Property.

The first bill before the Committee is Bill 61 The Marital Property Act. Clause 1(1)(a), Mr. Jenkins. Mr. Sherman. **MR. SHERMAN:** Mr. Chairman, before we proceed I wonder if I could have leave of the Chair and leave of the Committee to make an opening statement.

In support of that request, Sir, I would say that by making an opening statement related to the amendments that have been proposed and been before all caucuses this last 24 to 36 hours, it would possibly foreshorten some of the proceedings on a clause by clause basis later on. The statement that I would make would embrace our position vis-a-vis the family law legislation before us in total at the present time.

MR. CHAIRMAN: Is the Committee agreed? (Agreed) Proceed, please.

MR. SHERMAN: Thank you, Mr. Chairman, and I wish to thank members of the Committee. I also would say that if the Attorney-General was intending to make an opening statement, I would of course defer to him, and certainly be agreeable to his going first.

MR. PAWLEY: I'll wait now for your opening statement.

MR. SHERMAN: Thank you, Mr. Chairman, Mr. Attorney-General. I wish to take just a few minutes of the Committee's time, with its indulgence, to put the position of my caucus which I'm authorized to put, on the legislation and the amendments in front of us.

Our position, Sir, is that the proposed amendments in front of us now leave us in the same mechanical position — and I emphasize "mechanical" — that we have been in on this Committee for several weeks, in fact several months now. That is, we're dealing with proposed legislation that we feel contains enormous implications and enormous difficulties in application and that needs remedying and correcting before it can be applicable fairly. So, where a few weeks ago we were dealing with a bill that we felt required substantial amendment, we now are dealing — in our view — with amendments we feel require substantial amendment.

We believe — and I think we have been consistent in our position — that there are implications and ramifications of this kind of legislation that have not been fully foreseen or anticipated up to this point in time, and that require intensive additional study in order that the legislation, when we get it, is right. We'd like to get it but we'd like to get it right.

We recognize that the concept that marriage is an equal partnership is one that is devoutly to be desired by Manitobans, and the Progressive-Conservative Party and caucus subscribes to that. I want to emphasize that point for the record, Sir, to diffuse whatever attempts may be made in the future to suggest otherwise. The Conservative Party supported the bills on second reading which is indication that we support them in principle, and we have stated — and I wish to restate — that we support them in principle.

We believe in the concept of marriage as an equal partnership. We find the bills as they are worded, the sections in their legalise and legal implications and the amendments, pose many many more difficulties than they profess or purport to correct. And we earnestly urge the Attorney-General, once again, to withdraw the bills for further study in order to get the legislation right.

There are a number of specifics, in fact there is a great number of specifics, in terms of individual clauses and sections in the bills in front of us on which we find unanswered questions that will cause widespread upheaval in terms of relationships, not only social and marital, but financial and legalistic throughout Manitoba; we intend to identify those as we go through the bills. It's for that reason that we restate our plea that the legal aspect be studied more fully and much wider in order that the bills can be equitable for wives, for husbands and for children, all , in the province.

Sir, to support our position that we are in favour of enshrining the concept of marriage as an equal partnership, I would like to recommend to the Attorney-General — and I'm authorized by my leader and my caucus to do so — that the bills be withdrawn for further study, but that at this point in time the Attorney-General introduce an amendment to The Married Women's Property Act along the lines that was proposed before this Committee during its public hearings.

We believe that that amendment — and I would like to read it into the record, Sir, it would only take me about two minutes and with the Committee's indulgence I would like to read it into the record — we believe that that amendment would do all the things that are legitimately desired and legitimately deserved by wives and children and husbands in Manitoba today; in terms of recognizing marriage as an equal partnership; in terms of recognizing the contributions made to the marriage; contributions being universal and not restricted to the monetary area and in terms of providing the kind of protection and equity when it comes to equal rights to assets in a marriage, that the bills in front of us purport to do. But that kind of amendment would do it much moresimply, much more efficiently and

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much more equitably in our view, where the bills in front of us would create enormous social upheaval and legal problems that will be years in the solution.

So, Sir, if I may just suggest to the Attorney-General, our proposal to him is that he withdraw these bills for further study; that he bring in an amendment to the Married Women's Property Act; an amendment on which I'm authorized to advise you, Sir, our caucus would be prepared to give first, second and third reading in 24 hours; an amendment which would do the following:

It would be an amendment to Section 8(1)(a) of The Married Women's Property Act and to 8(1)(b) and to 8 (5) which would create two new sections. It would read as follows, Sir:

At any time during the marriage but after,

(a) the parties have separated pursuant to an order of any court of competent jurisdiction or any agreement either oral or in writing between them, or

(b) the parties have been living separate and apart for not less than six months, either the husband or the wife may apply in a summary way to a Judge of the Court of Queen's Bench or at the option of the applicant irrespective of the value of the property in dispute, to a Judge of the County Court of the district in which both parties reside, for a declaration as to the title to or possession of any property, and the Judge may make such order with respect to the property in dispute and to the costs of and consequent on the application as he thinks fit; or he may direct the application to stand over from time to time and any inquiry or issue touching the matters in question to be made or tried in such manner as he thinks fit.

8(1)(b) On any such application made pursuant to the provisions of Section 8 (1)(a), it shall be presumed unless the contrary be shown, that all assets acquired during the marriage and any accretion in their value to the date of the separation were acquired by the joint and equal efforts of the parties; and there shall be taken into account in the consideration of the respective contributions of the parties, not only those contributions or actions which may be directly related to the acquisition of such assets, but all contributions and actions, monetary or otherwise, by either party to the marriage.

The final amendment which would be to 8(5), Sir, would be a short one. We would recommend that 8(5) be amended to increase the value eligible for Right of Appeal to a minimum of \$1,000.00. At the present time the legislation reads \$200.00.

Sir, that's our proposal to the Attorney-General. It's sincere. I think it's consistent with the position our party and our caucus has taken since these studies got underway in November of last year, and I repeat that I am authorized to put that to the Attorney-General with the undertaking that we would be prepared to move that amendment through all stages of the process, first, second and third reading in 24 hours.

Thank you, Mr. Chairman. I wish to thank members of the Committee for their patience.

MR. CHAIRMAN: As the member has noted, such a debate would normally be out of order at Committee at this stage. However, with the indulgence of the Committee Mr. Sherman made a statement, the Chair will allow the Attorney-General to reply along the same lines if he wishes. Mr. Pawley. Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, I wonder if I might ask two questions in order to more fully understand the statement. If he'd rather not . . . you know I don't want to get too much involved and I don't want to debate it. I just want to ask two questions for clarification.

MR. CHAIRMAN: Proceed.

MR. CHERNIACK: Well the first question is, what would this proposal do to affect the law for maintenance, and the suggestion was to withdraw the Maintenance Bill, and I am wondering just what Mr. Sherman thinks this will do to assist in the question of maintenance. Secondly, to what extent does he believe that his proposal changes the law as it is today?

MR. SHERMAN: Mr. Chairman, in response to those questions with respect to the matter of maintenance, the whole field of maintenance would still be left in the area of judicial discretion, but the judge, the judiciary, examining the application would be directed to approach the question from the point of view of recognizing equal contribution to a marriage.

MR. CHERNIACK: It's in the amendments?

MR. SHERMAN: It's in the amendment. As a consequence of recognizing the equality of the relationship, unless there are extraordinary extenuating circumstances to the contrary, and as a consequence of recognizing the fact that contribution to a marriage would be viewed as equal, it would follow . . .

MR. CHERNIACK: Wives' and Children's Maintenance Act would be repealed?

MR. SHERMAN: No, it wouldn't repeal it, but it would amend it. It would amend the Married Women's Property Act . . .

MR. CHERNIACK: If I may, the question was maintenance, not property, and the question was whether the fault features that go throughout the Wives' and Children's Maintenance Act had to be maintained or dropped. That is what I am not clear on.

MR. SHERMAN: No, it would not wipe out the Wives' and Children's Maintenance Act, but it would naturally follow, we suggest, from this amendment that the question of equity and maintenance

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would be guaranteed by virtue of the direction given to the judiciary in this amendment.

The second question that Mr. Cherniack asked me, I would answer, Sir, by saying what this does is it sets out the guidelines for determining property disposition in the event of breakdown of marriage. It sets out guidelines that direct a judge to consider the equal contribution and the ensuing right to equal sharing in the assets of that marriage.

MR. CHAIRMAN: Mr. Pawley, did you wish to reply to the statement?

MR. PAWLEY: Mr. Chairman, I regret that I am in a position where I have not yet seen the amendment prepared by the Opposition. I would like to certainly have had an opportunity to peruse the amendment before making any opening remarks. But I want to say this to the general proposition. It seems to me that there has rarely been legislation that has been more studied and re-studied than the Family Law legislation.

First, we started with the Law Reform Commission of Manitoba, held a series of public hearings, many representations. Then we had a special committee of the Legislature, which also studied this entire matter, plus the Law Reform Commission report, received again a series of briefs, then again the present committee. As this is proceeding we have produced in pretty well every province, I think, save one in Canada, recommendations from individual Law Reform Commissions, plus the recommendations of the Federal Law Reform Commission. So this entire matter has been studied and re-studied not only in Manitoba, but throughout all of Canada, including that study which took place at the Federal level. And also I must say that legislation was introduced in the Ontario Legislature and I am sure that once things settle down to norm in Ontario that they will be proceeding in Ontario with legislation pertaining to the entire field of Family Law.

I want to say this, Mr. Chairman, that I think that our present exercise has been very very useful. I think it has demonstrated the effectiveness of the legislative process at its best. We arrived in this committee with a very clear indication from the government that we were prepared to listen to all representations, and that we were prepared to consider amendments relating to the submissions. That statement was made prior to the arrival in committee. And in committee, we received many many excellent briefs not only from various groups that can be associated with women's groups, but also religious and the legal. And if there was something, which I think, ran common throughout was general concurrence with the concept and with the intent of the legislation before us.

There was a number of briefs from the legal profession, which criticized various aspects, and it is from those briefs that we undertook a very considerable review of the legislation before us, and have proposed amendments today.

I want to say, Mr. Chairman, so that it should not go unnoticed, that I don't recall previous instances where government amendments have been handed out well in advance to committee members for them to peruse and to study, quite open also to those submitting briefs, not waiting until the clause-by-clause analysis, giving them out well in advance, so that those submitting briefs would know what they contained, so committee members would know what they contained; and then to also make available the opportunity, without anyone adopting a locked-in position, to re-examine various aspects. To demonstrate, Mr. Chairman, that this was not just grandstanding on the part of the government as to its willingness to receive and to listen to all reasonable suggestions, there has been a very substantial change in the legislation allowing a certain degree of discretion.

Some will be disappointed with this, because certainly most of the briefs from the public recommended no discretion whatsoever. I would say the vast majority of the public recommended that there be no discretion in the amendments. In the amendments before us, they deal with the allowance for a limited amount of discretion, which I think, would fit in with the majority of briefs that were presented to us even by members of the legal profession.

Now, what is proposed — and I haven't had the chance to study the amendments of the Honourable Member for Fort Garry. I look forward to having an opportunity to review those — it seems to me to be something which is not too far distant from the existing legislation, and certainly to allow much much broader discretion than what is proposed by the government, and I say at this point, without the benefit of perusing those amendments but only from hearing them from the Member for Fort Garry, proposals that would change the law very very little from the present. It might give the impression to Manitobans at large that there was substantive changes in the legislation, substantive reform of Family Law, but in fact I fear, Mr. Chairman, really fear, would mislead Manitobans by the very fact that, I think, is subject to having a greater opportunity to review them, really offers very very little by way of change from the present legislation.

MR. CHAIRMAN: Thank you. May we proceed to the clause-by-clause considerations. Clause 1(a). Mr. Jenkins.

MR. WILLIAM JENKINS (Logan): Mr. Chairman, I move that Clause 1(a) of Bill 61 be struck out and the following clause be substituted therefor:

(a) "asset" means any real or personal property, or any legal or equitable interest therein, including a chose in action and money, and any accrued appreciation in the market value of any of the foregoing, but not including (i) any marital home that is subject to the standard marital regime

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or any interest therein; (ii) any article of personal apparel.

MR. CHAIRMAN: Any discussion on the amendment? Mr. Spivak.

MR. SPIVAK: I'll yield to Mr. Sherman.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, my question would be with respect to the inclusion of the chose in action, which includes as I understand it, such instruments as life insurance policies. I don't see how the inclusion of life insurance policies, ordinary life insurance policies, not those that are taken out by a third party and conferred for the express benefit of one of the spouses, ordinary life insurance policies, can be included under the definition of asset, which means shareable asset, of course, in the amendments that we are looking at, and be workable.

I would put the question to the Attorney-General as to what happens in a situation, for example, when a spouse on the breakdown of a marriage, who has managerial rights in that insurance policy, insists upon his or her half share of the cash surrender value of that policy or those policies. This means, in effect, that the person taking out the insurance policies — who may have taken them out as an investment, many people regard that as a form of investment — would have to cash in those policies, they might be at an age or a stage of health where they couldn't buy new insurance and so that investment would be liquidated and lost. That's only one of the problems of including a "chose in action" of the type that an insurance policy is.

MR. CHAIRMAN: Mr. Pawley.

MR. PAWLEY: Mr. Chairman, insofar as the insurance policies, we've discussed this at some length at our level and I think that the only safe thing to do at the present time is to leave that question to judicial discretion as to how they are dealt with in the individual cases.

MR. CHAIRMAN: Mr. Sherman. Mr. Spivak.

MR. SPIVAK: Well, I mean, the statement by the Attorney-General is nonsense. To suggest that we're not going to define assets at this point, but leave it to the question of judicial discretion. Our problem here is that we have to legislate, in order to legislate we have to understand all the kinds of transactions that we're dealing with and to avoid the issue of insurance at this point is ridiculous because insurance has to be dealt with and understood as to whether it will be considered a family asset or a commercial asset. The rights to management of the family assets which are provided in this Act will simply mean that we are going to affect a whole range of transactions which have already taken place and to be taking place in the future without anyone being secure or knowledgeable as to what procedures that have to be followed and to say that we will wait until the courts make the determination of that is a mistake, we have to understand it and even if it's going to take us days to understand it, I don't think we can legislate until we know what we're really talking about. So it would seem to me that there is an obligation on the part of the government to present to us, properly and appropriately, exactly how the issue of insurance will be handled for us to then understand the consequences that flow with respect to that one type of commercial transaction, as we will have to deal with others.

MR. SPEAKER: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, it seems to me that to the extent that insurance may be considered an investment and usually insurance is a — well, insurance we know is to protect in event of death, but if it were the kind of insurance that could be considered a savings, then it would be something that would become available for distribution between the spouses as being accumulated assets during the course of a marriage. I think the point of discretion which the Attorney-General mentioned I understood to apply to the discretionary aspects which is given to a court firstly as to the nature and size of the assets and secondly, where the court has the right and I think the obligation to decide on the manner in which that asset would be dealt with, whether it's dealt with as an asset that there would be compensating value paid or postponed. That's in the Act.

Mr. Sherman said the spouse could force the cash surrender of the policy. That's not true in my reading of the Act. I believe that the court has a right to decide whether or not it would be and surely in the case that he suggests we can rely on the courts to realize that surrendering a policy for a person whose life or whose health is such that he could not replace it, I believe the courts would protect them. Now that is for the kind of insurance, of course, that is not excluded from an asset from the proposed Section 9(1). So that I think that the court could deal with both the sharing of the assets and, as well, the decision as to when and how the value is paid and realized. I point out that the problem that is posed would apply to this change in the Marital Property Act that is being proposed by Mr. Sherman, the same problem would arise, the court would have to make an adjudication on the extent of it. I don't see that Mr. Sherman has made anything that helps one bit by suggesting it as if it were included in his proposal and then criticizing him here.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: Well, the great difficulty I have with this and the reason why I think it's necessary to discuss it at this first stage because I think we will be into it, probably in different ways as we proceed, is the fact that how do we create certainty with respect to the whole range of transactions that people

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deal with in a normal and conventional way, unless we ourselves are sure of what we're really talking about at this particular time and I don't think it's up to us to simply say that those people who will have to deal with this Act are simply going to have to figure it out for themselves as to what they should or should not do and whether some will provide more onerous requirements than others.

Now, we talk about insurance and we have to understand why the concern at this particular time. There was a letter sent out from the Canadian Life Insurance Association to the Minister. I don't think that that was published and I don't think that that was referred to in any of the briefs that have been presented. All they simply did was point out and pose to the government the problems and they basically said that the problems are your problems, you will have to sort of solve how we are going to operate because it really isn't our problem, it's going to be the problem of all the people we do business with. But let's talk in practical terms about what we're talking about. It's a common thing in terms of insurance policies for premiums not to be paid and for them to be applied against the paid up value of the insurance policy.

As I see it now, unless we determine whether we're talking in family assets or commercial assets, if it's considered to be a family asset, it will require the consent of the other spouse before, in fact, that can be applied as by way of a loan, and what you're really talking about are probably thousands of transactions that occur every month in this province. Now, is it going to be family assets. Is that going to be required? If a person who has a policy of life insurance, wants to change a beneficiary, are they going to require the consent of the other spouse? If it's considered a family asset there's a management responsibility, a managerial responsibility and there is an entitlement and, in effect, there will be a consent that is going to be required. If it's commercial it will not. I think that there is a need for us now to cope with the necessity of certainty in this legislation rather than to have to deal with the whole issue that someone else is going to have to make the decisions and so, therefore, I think it's important that we come to some conclusion as to what is intended and if it's necessary, to draft the things that we arrive at in a definite form so that at least there is some stability with respect to what we're dealing.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Yes, just in response to the point raised by Mr. Cherniack, Mr. Chairman. The difference between the proposed amendment brought in by the government and the amendment that I proposed to The Married Woman's Property Act, or that we proposed, lies in the difference between instantaneous and deferred sharing. The definition of "chose in action" or the inclusion of a "chose in action" here is within the definition of an asset which is an immediately shareable family asset. Our recommendation would deal with those distributions at the point of breakdown of the marriage. That's the difference.

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, now I understand that Mr. Sherman and his party are opposed to immediate vesting of any asset. Well, that's the way I interpret what — (Interjection) — Well, Mr. Spivak, I'm sure, will have an opportunity to speak because I think, Mr. Chairman, your record is pretty good on recognizing everybody who wants to speak.

Mr. Sherman made the distinction that the proposal he has in mind is deferred until there is a separation and that applies to all assets and that's why he says the distinction and the question he raises is not an important one in the light of his proposal because in his proposal there is no immediate vesting of any assets. Now I understood Mr. Sherman very clearly and if I didn't understand him, I guess Mr. Sherman can correct me but that's what he said as far I as I can see.

Now I would like to get clarification — I suppose mainly Mr. Spivak is arguing this — whether or not it is not possible to distinguish between what would be a commercial asset and a marital asset in relation to the nature of the insurance policy because we do say that shareable asset includes the insurance policy, then we describe what are commercial assets and then we say that a marital asset is a shareable asset except a commercial asset. Now the question there is, can you rely on the courts to look into the nature of the insurance policy and decide whether or not it is a commercial asset, and having made that decision then the decision falls into place as to whether or not it's a marital asset. Now it would be helpful to me as a member of this committee to know what is it that Mr. Spivak or his party are recommending in the nature of whether or not an insurance policy should be a commercial asset or should not be a commercial asset. Does he and they say that no insurance policy under any circumstance should be a marital asset? If so, then they could make a contribution to this committee by suggesting that "chose in action" or an insurance policy should be clearly set up as a commercial asset, then we know what we're debating. But I don't have any problem in leaving it to a court to look into the nature of the insurance policy and deciding whether it's a commercial asset or not and whatever that decision is, then I think that it would follow right in accord with the Act and there is the certainty involved that the court having made the decision, then it is clear which way it goes. It would be helpful if we knew what the Conservative Party believes it ought to be.

MR. CHAIRMAN: Mr. Spivak.

MR. SPIVAK: I'd like Mr. Cherniack to tell me what he expects the insurance companies to do. Just

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what does he expect the life insurance companies in Canada who deal with Manitoba people to do? This is the law, you know, forget about the Conservative Party and the arguments that have been advanced; now talk about the commercial transactions that are taking place. Do you expect them to operate in the same way? Do you expect them to change their procedures? Do you expect them to ask and deal in each individual case to determine whether, in fact, the insurance that they are providing is family or is it commercial?

MR. CHAIRMAN: Mr. Cherniack.

MR. CHERNIACK: Mr. Chairman, now that Mr. Spivak has invited me to forget the Conservative Party and indeed has refrained from answering my question, which makes me feel that he is not prepared to state a position . . .

MR. SPIVAK: No, it's because you're not prepared to answer the questions, that's the problem.

MR. CHERNIACK: . . . I would say that in the first place we know with insurance policies and in dealing with them, the beneficiary is always included in any dealing with it as far as the insurance company is concerned. In other words, they will not make a loan, they will not surrender the policy, accept surrender, unless there is approval by the beneficiary.

MR. SPIVAK: The beneficiary may not be the spouse.

MR. CHERNIACK: Pardon?

MR. SPIVAK: The beneficiary may not be the spouse.

MR. CHERNIACK: That's correct. Well then, we now accept the fact that the insurance policy deals not only with the owner of the policy but also the beneficiary. Therefore, I see no problem where the insurance company is in doubt and no doubt in my mind that when there is any doubt in the mind of the insurance company and there has not been an adjudication — which could occur very quickly because under this Act the marital assets will pass and therefore can be adjudicated on very quickly — that I would say, if I were the insurance company, that unless there is a declaration that this is a commercial asset and that could be achieved fairly quickly, then they would automatically say, "Do you have a wife? If you have a wife and if it is not a commercial asset, have her consent to it." In which case, it being a marital asset, she ought to consent in the principle of this bill for which the Conservative Party voted. So again I have to ask, what does the Conservative Party think should happen with an insurance policy?

MR. SPIVAK: Mr. Chairman, you know we're not going to get anywhere here for one reason only. The government is going to have to accept responsibility for governing. They are going to have to accept responsibility ultimately for the Act that they are producing and they are going to have to be responsible for what is going to happen. And we are entitled, Mr. Chairman, regardless of what Mr. Cherniack may want to throw in as red herrings, to ask the government how this Act is to operate. And one of the problems we face and we might as well start discussing it now because we are going to be dealing with it as we go through the Act, is to understand clearly how they visualize the Act applying and in the day-to-day transactions that people deal with, how they expect those who deal with people to handle their commercial transactions.

Now, we've already dealt with or suggested the problem of loan, which is a very common practice. The premium is not paid on time, a loan is attached to get a paid up value. It's common practice. The consent of the other spouse, if it is a family asset, will obviously be required. Is it going to be required in every individual case and every occasion when this happens? Is that going to be the law? Does that flow from this or not? And I think that these are the kinds of questions that we haven't dealt with, that we have to deal with. It has nothing to do essentially with the principle of the bill. It has to do now with its operation and we are now into the details of it and the government has the responsibility to explain, in detail, its operation and to give us a full explanation of how this is to operate, because if we can't get answers now, then sure, the courts will give judgment and sure there are going to be problems, but there can be also a number of onerous things that will occur that were never visualized by any of the members of the legislature here. And so therefore again I ask the government to indicate to me what do they visualize with respect to insurance? We haven't talked about any other of the matters. How do they expect the insurance companies to operate and are they simply saying, "It's in your hands, you do what's required," or do they have in mind the specific ways in which they are to operate with respect to the determination of family or commercial assets and in turn, the consents that have to be required for the whole ranges of changes that occur in insurance on a daily basis for people in their normal transactions.

MR. CHERNIACK: Well, Mr. Chairman, I thought I had given my reactions how an insurance company would operate. I don't know whether Mr. Spivak has any idea of what would be the difference in his mind — forget a judge but in his own mind — what is the difference between a commercial asset in an insurance and what is not a commercial asset because he has already agreed that the beneficiary of an insurance policy has to consent in dealing with the policy. I would go a little further and say that if the spouse is not the beneficiary then if a business partner is the beneficiary, it might well be a commercial asset. But what I'm saying is that if a person has to borrow on the strength of an insurance policy, he may also borrow on the strength of his own home. Even if he owns the

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home in his own right he still has to get his wife's consent. And when you come to management, I think the whole principle of this bill is to recognize that a spouse has the right to participate in a decision relating to what is a marital asset. I have not yet heard anyone argue that a insurance policy should not be a marital asset. Therefore, if they think it should be a commercial asset, let them so say so, then there's no problem. All the points raised are of no concern.

So Mr. Spivak is right, the government has the responsibility of making decisions. The Opposition so far has shown the responsibility to question and oppose, which is fair game, and that's all their contribution is. But they could also be helpful if they made suggestions as to improvement, and everything we have before us shows that we have taken every suggestion made by every person who came here and considered it carefully for improvement. It would be helpful if Mr. Spivak, with his experience, would also make helpful suggestions.

MR. CHAIRMAN: Order please. The hour of adjournment having arrived Committee rise and report. Committee rise.