

**LEGISLATIVE ASSEMBLY OF SASKATCHEWAN**  
**April 10, 1995**

The Assembly met at 1:30 p.m.

Prayers

**ROUTINE PROCEEDINGS**

**PRESENTING PETITIONS**

**Mr. Goohsen:** — Thank you, Mr. Speaker. I'm happy today to present petitions on behalf of the people from the Gull Lake area and some from Maple Creek as well. I'll read the prayer:

Wherefore your petitioners humbly pray that your Hon. Assembly may be pleased to allocate adequate funding dedicated towards the double-laning of Highway No. 1; and further, that the Government of Saskatchewan direct any monies available from the federal infrastructure program towards the double-laning of Highway No. 1, rather than allocating these funds towards capital construction projections in the province.

And as in duty bound, your petitioners will every pray.

I'm happy to table these today, Mr. Speaker.

**Mr. D'Autremont:** — Thank you, Mr. Speaker. I too have petitions to present today. The prayer reads:

Wherefore your petitioners humbly pray that your Hon. Assembly may be pleased to unequivocally oppose changes to present legislation regarding firearm ownership, and instead urge the federal government to deal with the criminal use of firearms by imposing stiffer penalties on abusers, and urge the federal government to recognize that gun control and crime control are not synonymous.

And as in duty bound, your petitioners will ever pray.

These petitions come from McLean, Regina, Qu'Appelle, Davin, and Kerrobert, Mr. Speaker. I so present.

**READING AND RECEIVING PETITIONS**

**Clerk:** — According to order the following petitions have been received and have been reviewed pursuant to rule 11(7) and they are hereby read and received.

Of citizens of the province petitioning the Assembly to oppose changes to federal legislation regarding firearm ownership.

**INTRODUCTION OF GUESTS**

**The Speaker:** — Before I recognize any other members, I would like today to inform the members of the Assembly that Mr. Sam Darkwa, Esq., Clerk of the Parliament of the west African state of Ghana, will be guest Clerk at the Table for the duration of this week.

The purpose of Mr. Darkwa's visit is to observe the proceedings

and the administration of the Assembly. He chose to visit Saskatchewan on the advice of a number of his colleagues from parliaments elsewhere in Africa. Next week, Mr. Darkwa will be the guest of the House of Commons in Ottawa, and then finally Westminster in the United Kingdom before returning to Ghana.

Mr. Darkwa began his parliamentary career in 1962 when he was appointed as Clerk Assistant. He again held that post from 1969 until 1972. Mr. Darkwa has served his country's executive as Senior Secretary to the President from 1966 to 1967, and as Principal Assistant Secretary to the Minister of Youth and Social Welfare, from 1972 to 1974.

In 1975 and 1978, Mr. Darkwa served as assistant director, Commonwealth Youth, African Region. In 1979 he was appointed Deputy Clerk of the Ghana parliament, a post he held until 1981. During the 1980s, he worked in Zambia with the Commonwealth Secretariat. In 1992 Mr. Darkwa was appointed Clerk of the Assembly, and in 1993 Clerk of Parliament.

I ask all members to join with me in making Mr. Darkwa welcome during his visit to Saskatchewan. Mr. Darkwa.

**Hon. Members:** Hear, hear!

**Mr. Van Mulligen:** — Thank you, Mr. Speaker. Mr. Speaker, I wish to draw to your attention and introduce to you and through you to the other members of the House, a group of 28 grade 4 students from St. Andrews School in my constituency. They're seated in your gallery and they're accompanied by their teacher, Claude Barry, and by Mrs. Beaurivage. And I would ask the members to join me in extending them a warm welcome this afternoon.

**Hon. Members:** Hear, hear!

**STATEMENTS BY MEMBERS**

**Business to Business Expo '95**

**Mr. Trew:** — Thank you, Mr. Speaker. Regina's reputation as a grey, cautious, uneventful, civil service kind of a town has never been deserved. But these days it's shedding that reputation quicker than some members of the Assembly change their policies.

As evidence of the new face Regina is presenting to the world, this morning the chamber of commerce and the Minister of Economic Development announced the Business to Business Expo '95 trade show planned for this fall.

And because of the many exciting high tech communications developments announced recently, the Economic department will sponsor a telecommunications and information technology section at the show.

This is just another example of how the government is working in partnership with Saskatchewan industry to create a climate of

investment and growth. The information technology section at this show is a logical outgrowth of announcements about the CIBC (Canadian Imperial Bank of Commerce) call centre and the Canadian Cancer call centre.

We've made an excellent start and there's much to be done, which is why this section will be a vital component of Business Expo '95. Regina has the lowest unemployment rate in Canada. It has a very positive outlook for housing in the current year. In fact, the Canadian Mortgage and Housing authority says, quote: Regina is riding a wave of consumer and business confidence.

I congratulate the Regina chamber for its role in creating and sustaining this wave.

Thank you, Mr. Speaker.

### **Regina Named One of Canada's Top Quality Cities**

**Ms. Hamilton:** — Thank you, Mr. Speaker. Regina is changing its image in other ways as well. Not only is it booming economically, it is becoming known as one of the best cities in Canada in which to live. This is a secret many of us already know.

However it is good from time to time to have our own value judgements confirmed by a completely objective outside source, just to give us a reality check if nothing else.

So it was with great pleasure but no real surprise to read in the current issue of *Chatelaine* magazine that Regina is one of the healthiest cities in Canada. I know that members of Regina caucus know that; now the whole country knows it.

In a survey of 25 Canadian cities, Regina was rated fourth, slightly behind Quebec City, Calgary, and London, Ontario. The first and third places we can dismiss as an obvious ploy to diffuse the national unity debate taking place; just as obviously, Calgary's place will soon be eliminated due to Klein's cut-backs, leaving Regina alone at the top.

*Chatelaine* considered nine factors including air quality, numbers of hospital beds and doctors, park space, and so on. These are among the fundamental elements of comfortable city living, having nothing to do with the accident of location and everything to do with quality of life.

It is interesting that cities with spectacular settings finished at the bottom of the list.

Regina mayor and council take seriously their responsibility to support the goals of healthy communities, and I thank them and congratulate them as well.

As I said, Mr. Speaker, this article is good news, but it's old news for a long-time Regina resident like myself.

Thank you, Mr. Speaker.

**Some Hon. Members:** Hear, hear!

### **Esterhazy Wellness Expo**

**Mr. Knezacek:** — Thank you, Mr. Speaker. Mr. Speaker, I'm pleased to report on an event that happened this past weekend in my constituency and met with great success. The Great Esterhazy Health, Wellness and Fitness Expo took place on Friday and Saturday. Well over 4,000 visitors packed Heritage Hall to view exhibits sponsored by 40 different organizations.

There were demonstrations of golf, karate, weightlifting, and acupuncture. Presentations included nutrition, smokeless tobacco, transplants, and first aid.

The Premier, who very capably served as honorary Chair of expo, was present at the official opening ceremonies. Other special guests included Aaron Ruffin and Gainer the gopher of the Saskatchewan Roughriders.

Mr. Speaker, the expo is an excellent demonstration of communities and organizations cooperating to promote the well-being of everybody. Wellness is people educating themselves on how best to stay well. The 40 groups involved as exhibitors proved that wellness can be as much fun as it is fulfilling.

Mr. Speaker, I want to take this time to congratulate the exhibitors and volunteers for another great expo. I want to make special mention of IMC Canada (International Minerals and Chemical Corporation (Canada) Ltd.), the North Valley Health District, the Esterhazy medical community, St. Anthony's Hospital, the Potashville School Division, the town of Esterhazy, and the expo steering committee. Their hard work made the event a grand success. Thank you.

**Some Hon. Members:** Hear, hear!

### **Western Canada Junior B Hockey Championship**

**Ms. Stanger:** — Thank you, Mr. Speaker. The city of Lloydminster in my riding has reason to celebrate today. Over the weekend, Lloydminster hosted the Western Canadian Junior B Hockey Championships at the civic centre. I am pleased to report that the Lloydminster Bandits won the gold medal by defeating the Regina Capitals 3-2 in the final.

I had the pleasure of participating in the opening ceremonies for this hockey championship. And to have the host team win in front of their fans was an excellent way to conclude the championship.

Mr. Speaker, six teams from British Columbia, Alberta, Manitoba, Saskatchewan, and Thunder Bay competed in this championship. And the fact that the two Alberta-Saskatchewan teams placed first and second says a lot about the calibre of hockey in our provinces at the junior B level.

I would like to congratulate the Lloydminster Junior B Bandits hockey team and their coaches for providing the ability and for giving us the best entertainment in western Canada.

I'd also like to congratulate all the organizers and volunteers who ensured the success of this event. A tremendous amount of

work and commitment is needed to host an event of this magnitude, and running a flawless tournament and having the host team win the gold medal is a feather in the cap of the community of Lloydminster. Thank you.

**Some Hon. Members:** Hear, hear!

### **Lumsden Precision Skating Team Attending Canadian Championships**

**Ms. Murray:** — Thank you, Mr. Speaker. I rise today to wish the Lumsden Axels precision skating team good luck at the 1995 Canadian Precision Skating Championships being held in Calgary this week.

Precision skating is a relatively new sport that has rapidly gained popularity across Canada as well as the world. It involves synchronized skating with 12 to 24 people moving with precision, unison, and artistry.

After many successful years in a recreational category, the Lumsden Axels have ventured into the competitive area at the junior level. This means even more hard work and two programs instead of one.

As a result of their determination and dedication, they are Saskatchewan's junior competitive champions and thus they are eligible to compete at the Canadians in Calgary, where over 100 of Canada's best precision teams will meet.

There are 18 members on the Lumsden team and they are coached by Telena Oussoren-King. Please join me in wishing the Lumsden Axels the best of luck and an exciting time at the championships. Thank you.

**Some Hon. Members:** Hear, hear!

**Mr. Flavel:** — Mr. Speaker, with leave, to introduce guests.

Leave granted.

### **INTRODUCTION OF GUESTS**

**Mr. Flavel:** — Thank you, Mr. Speaker. Mr. Speaker, I want to introduce to you this afternoon, and through you to the other members of the Legislative Assembly, six grade 9 and 10 students from the Punnichy High School, along with their teacher, Sylvia Nagy. They're situated in your gallery. They're in here to watch a little bit of question period, but they're on a pretty tight schedule today so they won't see much of it.

But I want to take this opportunity to welcome them and ask the members of the Legislative Assembly to join with me in welcoming them here this afternoon.

**Hon. Members:** Hear, hear!

### **ORAL QUESTIONS**

#### **MLA Pension Plan**

**Mr. Boyd:** — Thank you, Mr. Speaker. Mr. Speaker, my question this afternoon is for the Premier or whomever wants to take responsibility on that side of the House for the million dollar pensions they receive.

Mr. Minister, Mr. Premier, there was a big headline in Saturday's paper: "Pensions may change." That kind of misleading headline when you have every intention of keeping your pensions exactly the way they are. In fact the Premier said that in Calgary on Friday.

Mr. Premier, I know that you're always very concerned about your position being misinterpreted through the media. Could you clear this up for us. Do you intend to roll back your million dollar pension, or do you plan on keeping it exactly the way it is?

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Lingenfelter:** — Mr. Speaker, I want to be clear with the member opposite. I think he was referring to a story in the *Leader-Post* Saturday, which referred to "Pensions may change." In it the deputy leader says:

"Clearly, there may be unintended consequences of Mr. McDowell's report, as has been indicated by the media report and by the member opposite."

Referring to your line of questioning. And not having been in the House Friday, having been out in Canora at community meetings in that part of the province, I want to say to you that the questions that you put were based in reference to the McDowell report which has some indication that the new pension plan and the old pension plan would see some increase.

I want to say to the member opposite that there is a process in place for reviewing this matter. A committee chaired by the Speaker of the Assembly, the Board of Internal Economy, will sit down and review the McDowell report. And for the Leader of the Opposition Party and the Leader of the Liberal Party . . . obviously when this committee originally met you never saw fit to review your pension, my pension, anyone's pensions. In fact at that point in time you never raised the issue. But when the committee meets, this issue will obviously be one of the items that we will be looking at.

**Some Hon. Members:** Hear, hear!

**Mr. Boyd:** — Thank you, Mr. Speaker. Mr. Speaker, Mr. Minister, indeed on Friday the Deputy Premier admitted that the big raise in your pension may have been an unintended consequence of the McDowell report. I suspect when this pension plan was first introduced by the Liberals in the 1960s, nobody foresaw pensions of 60 to \$100,000 per year funded by Saskatchewan taxpayers. In fact you could even say your million dollar pension is an unintended consequence of that plan.

Mr. Minister, given your Deputy Premier's commitment to deal with the unintended consequences, do you plan on dealing with that, unintended consequences of the original plan by capping

— by capping — your obscene pensions?

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Lingenfelter:** — Mr. Speaker, I say again to the members opposite, that when the committee meets, and not being in control of the agenda of that committee, obviously this will be one of the items that will be reviewed. And I intend that members opposite will want to be at those meetings.

The Leader of the Liberal Party, who demanded a 37 per cent increase, may want to get one of her back-benchers to introduce a private members' Bill that would roll back her 37 per cent increase. It's just a thought. But if you're sincere, Madam Member from Greystone, if you are sincere, why don't you get the member from Shaunavon to introduce a private members' motion that would roll back your 37 per cent increase?

And if it were any more than politics, you would have raised this in the committee, of which you are a member. You never took the opportunity to raise the issue of pensions in the committee because you had an election strategy. Clearly and simply this is your approach to trying to get an election issue going. But if you were serious . . . and maybe we could arrange a back-bencher who could come forward and move a private member's motion that would see, when members cross the floor from one party to another, that there would be no increase, and you could take a roll-back as well.

**The Speaker:** — Next question.

**Mr. Boyd:** — Thank you, Mr. Speaker. Mr. Minister, even one of your own back-benchers is predicting your pension — and the members on the front bench's pension — is turning into a major liability for your party. I suspect more than one of them holds that opinion. That's because they go home on the weekend, and they hear what people are saying.

It's probably not much fun defending your \$100,000-a-year pension to people who have lost their hospitals or to people who have to pay more taxes. It's not much fun explaining why GRIP (gross revenue insurance program) was gutted and the Saskatchewan Pension Plan was cut in half when your pensions remain untouched. It's no wonder your back-benchers are starting to grumble.

When are you going to do something about this, Mr. Minister? When are you going to start by setting an example of sacrifice just like everyone else has had to in this province? We in the opposition would commit to you today to be part of a Board of Internal Economy meeting this week if you people would also commit to that. Will you give that commitment on the government's behalf today, sir?

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Lingenfelter:** — I'm glad to see the member opposite, in a spirit of cooperation, is agreeing with what I said. I said that when the Board of Internal Economy meets, this will be one of the items that obviously will be on the agenda, given the fact — I say again — that the Deputy Premier said that

clearly there may be unintended consequences of Mr. McDowell's report.

And so as it would relate to pensions, obviously one section of the report dealt with the pension issue. And when the meeting is held, obviously we will be there. And I would also invite the Leader of the Liberal Party to be there as well. And she may want to, while we're discussing unintended consequences . . . of how she might give back, retroactively, the 37 per cent increase that she took personally.

### Employment Discrimination

**Mr. Goohsen:** — Thank you, Mr. Speaker. Mr. Speaker, my question is to the Minister of Justice. Mr. Minister, do you believe that it would be discriminatory to refuse to hire an individual or to refuse to rent an apartment to someone because of their union affiliation?

**Hon. Mr. Mitchell:** — Mr. Chair, here we go again. This is an exam and I'm going to be marked on the results, I take it. I took notice of this question last Thursday, Mr. Speaker, and I intend to report the answer to the House as soon as I'm briefed on the answer.

**Mr. Goohsen:** — Thank you, Mr. Speaker. Well, Minister, we'll keep asking the question for as long as it takes for you to decide to answer it.

Now, Mr. Minister, the Saskatchewan Human Rights Code is a significant part of your portfolio; a part of your portfolio that is supposed to be undergoing a complete review and an overhaul for the last couple of years.

Now that overhaul is as elusive as your answers to my very simple question, which you've had a whole weekend to study. I think you know well that this is discrimination and that your government's union preference tendering policy engages in discrimination as well — discrimination against non-union workers and against rural trade people.

Mr. Minister, the Human Rights Commission refused to investigate this matter because they say that union affiliation is specifically not contained in the Human Rights Code. In this overhaul that is now apparently been postponed until after the election, will you sponsor an amendment that guarantees an individual's right to work regardless of their affiliation? Would it not make sense to eliminate the discrimination against individuals who do not belong to a union, Mr. Minister?

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Mitchell:** — Mr. Speaker, it's my impression that the safeguards respecting union membership are already contained in The Trade Union Act, and exist there in quite a complicated and a refined way.

Our review of the Human Rights Code has been ongoing for some time and has been delayed because of an accident which the Chair has suffered, and we expect that report to arrive shortly, but I'm not certain when.

But I am certain that it is not contemplated that the Human Rights Code will repeat provisions or supplement provisions that are already contained in The Trade Union Act.

**Some Hon. Members:** Hear, hear!

### Firearms Legislation

**Mr. D'Autremont:** — Thank you, Mr. Speaker. It sounds almost like it's almost for sure that we'll have something coming down at some time, Mr. Speaker.

But it's interesting to note that the overhaul of the Human Rights Code has been postponed until after the upcoming election. It makes one wonder just what kind of hidden agenda is in place there. We've already seen one major amendment to The Human Rights Code in the last session, Bill 38.

Mr. Minister, in addition to helping tens of thousands of non-union working people in this province which need to be included in the Human Rights Code, why not also consider an amendment to the Human Rights Code which would protect law-abiding gun owners against a Liberal gun registry?

Why not use the Human Rights Code to actually help the majority of humans for a change, or are your silly and childish speeches going to do the trick, Mr. Minister?

**Hon. Mr. Mitchell:** — That is an amusing question. The speeches that I have been making against Mr. Rock's package make many of the same points that you yourself make, sir, from the public platform and that your leader makes from the public platform. We make substantially the same speeches.

But when you come into this House, trying to use that amendment, that amendment to the Human Rights Code, and pretend that it is of any use at all in the fight against Allan Rock's gun control package, you're just hoodwinking people; you're just fooling them. You're pretending to do something that is absolutely of no effect at all, and practically any lawyer practising in Saskatchewan will tell you that.

**Some Hon. Members:** Hear, hear!

### MLA Pension Plan

**Ms. Haverstock:** — Thank you very much, Mr. Speaker. The news gets worse for the taxpayers of this province who will have to foot the bill for the Premier's pension. After discussions with the Public Employees Benefits Agency, it was revealed that the Premier's pension will be significantly higher than the amount that was cited last week in the paper. These calculations did not include a section that allows for an extra bonus for the Premier. And based on the McDowell commission's salary recommendations, this would bring the Premier's first year pension to \$123,000 per year.

My question is to the Premier. And in his absence, I direct this to the Minister of Economic Development. Mr. Minister, I have one short question from the taxpayers: do you consider this

fair?

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Lingenfelter:** — Mr. Speaker, the Leader of the Liberal Party, having referred to the Premier's absent — a little unusual to be allowed in the House — but I want to say to you that every time he slips out of the House his pension goes up by 20,000. It's going to be a hard time getting him back in here, at the rate you're going.

But quite seriously, Mr. Speaker, the matter of the fact is that the individual in this House, to show the hypocrisy, who has taken the biggest jump in potential pension in this session in this term is — and I open the envelope — the madam from Greystone when she took a 37 per cent increase. That's who took the biggest increase in pensions in this term. That's a fact. You take the biggest increase.

And if you are elected Leader of the Opposition, if you're elected Leader of the Opposition in the next election — as the polls are indicating, you may win 10 or 15 seats — and you stay there for 30 years as the Premier has done in his position at one level or another, your pension at age 80 or 85, in fact under the money purchase plan, will be over a million dollars. Did you know that? It'll be over a million dollars.

If you win as Leader of the Opposition and you stay there for 30 years, you will have a pension plan that's yours and for your estate — different than the Premier's — over a million dollars. Isn't that a disaster?

**The Speaker:** — Next question.

**Some Hon. Members:** Hear, hear!

**Ms. Haverstock:** — Thank you very much, Mr. Speaker. It's most interesting how these particular people on the opposite side of the House try to, in fact, mislead the people of this province.

The Leader of the Opposition has taken a . . .

**The Speaker:** — Order, order. Order, order. I think that kind of inflammatory statement adds absolutely nothing to the question period, and I ask members to please tone down their questions. And while I'm on my feet, I ask others members to please quit interrupting when the answers are given and when the questions are asked.

**Ms. Haverstock:** — Thank you very much, Mr. Speaker. Very rarely is it commented on that every cabinet minister in this Legislative Assembly took a 75 per cent increase the day that they became cabinet. No one mentions that 79 per cent increase came to the Leader of the Opposition, Mr. Speaker. So as much as the members opposite try to make this a different kind of issue, this is about the Premier's pension, and anybody can look at the numbers. And what the member opposite is saying today, he's calling into question the Public Employees Benefits Agency in this province. They try to blame every single other person on their outlandish pensions, Mr. Speaker.

Mr. Minister, your government has been in power for almost four years, and you've talked about the need for the people of this province to join together to make sacrifices. Why hasn't your Premier, in close to four years, tried to amend section 17 of this Act, which is going to give him, and him alone, this bonus?

**Hon. Mr. Lingenfelter:** — I say again to the member opposite — in her complete exaggeration the Premier's pension has gone up by about 50,000 a year in the last week, by your estimation — I say again it's going to be tough to get him back in the House.

But I want to tell you something about moving from being a private member to being a cabinet minister. There is roles and responsibilities that change, that have been compensated for many, many years.

Now your only increase in role has been to manage the member from Shaunavon, and I understand that's a difficult task. I understand that that is a difficult task. He's an unruly cuss; there's not doubt about it. But 37 per cent increase for that; 37 per cent increase in your pension as well, Madam Member? I say to you, your new title should be the minister of what? — hypocrisy, based on the . . .

**The Speaker:** — Order. Order, order. Order. Order. It may help if members would just heed the warning a bit and not use the inflammatory statements. All right?

**Ms. Haverstock:** — Thank you very much, Mr. Speaker. There's a recognition in every province in Canada about the increased duties of anyone who becomes the Leader of the Opposition or a Leader of a Third Party — any one of them, Mr. Speaker.

The pension issue affects a number of members, but the Premier's bonus, it speaks clearly to the credibility of one person, Mr. Speaker. The Premier is the one who must set the standard, a standard for his government and a standard for the province. What kind of a standard is it when the Premier's annual pension benefit is two and one half times the total yearly income of an average family in Saskatchewan?

My question: if government is about leading by example — and yes indeed, you are still government — can you tell us how people can be expected to make sacrifices and pay higher taxes when this is the standard that your Premier and your government sets?

**Hon. Mr. Lingenfelter:** — We'll talk about standards all right, Mr. Speaker. And I want to say to the member from Greystone that I have here a little chart that was done up based on what your potential pension will be if you're elected Leader of the Opposition and you stay there for 30 years — this is under the money purchase plan — and you live to be . . . I think this assumes 25 years of pension. Your pension will be \$1.1 million. That's under your pension plan — \$1.1 million. That's what your pension will be with your new increase that you took for yourself, that you took for yourself.

Now I want to say to you, Madam Member, will you come to the Board of Internal Economy, and in the spirit of cooperation, turn back in the money that you took, the 37 per cent increase, along with it the pension? You took the biggest increase in pension of any member, any member in this Assembly, when you took your 37 per cent increase. Will you turn it back in when we have the meeting? And I challenge the members of the opposition to watch closely what that hypocrite from Greystone does when she comes to the Board of Internal Economy.

**Some Hon. Members:** Hear, hear!

### Sentencing Circles

**Mr. Toth:** — Thank you, Mr. Speaker. Mr. Speaker, my question is to the Minister of Justice. And this question arises from comments made by the Provincial Court judge, Claude Fafard, who has expressed concerns about the use of aboriginal sentencing circles in cases involving sexual assaults.

Mr. Minister, we have had some discussion on this scenario over a period of time, but I think where Mr. Fafard is coming from, he's just wondering exactly where your department's position is on sentencing circles. When can they be used and what safeguards are in place to ensure that sentences fall within the usual range of sentences that other criminals face?

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Mitchell:** — Thank you, Mr. Speaker, and I sincerely thank the member for that very important question.

This matter of sentencing circles is being explored through practice, in the Provincial Court in particular. And their use has been slowly developing, and developing in a conservative way, I think, in that particular court. We're learning as we go.

There aren't a lot of precedents out there for this, but what it does is involve the whole community in the sentencing question. It's after a person has been found guilty of the offence and the matter then is, what should be the punishment? And involving the whole community seems like a good idea and in practice in most cases looks like it is a workable and good idea and we are cooperating in its use.

The process is being driven largely by the Provincial Court judges and so far we're quite satisfied with it. But everybody is watching it closely and for one of the reasons that the member mentioned in his question.

**Some Hon. Members:** Hear, hear!

**Mr. Toth:** — Thank you, Mr. Speaker, and Mr. Minister. Mr. Minister, as Judge Fafard has said, most sexual assault cases don't meet the guidelines or the criteria set out for sentencing circles. And I believe what is coming out of this whole debate, Mr. Minister, at present is, one is wondering whether you believe we should have a racially specific justice process. People are wondering whether we're creating a two-tiered justice system, with one system for aboriginal people and one

for everyone else.

And, Mr. Minister, I guess the question is specifically, why does one group warrant special treatment under the law? It appears based on race, as we see in this scenario regarding justice circles.

**Some Hon. Members:** Hear, hear!

**Hon. Mr. Mitchell:** — I think it is the fact, Mr. Speaker, that no non-aboriginal person has requested a sentencing circle yet. I don't know what the court would do in the event that a non-aboriginal made such a request.

The reason why the aboriginals have such an interest in it is that it has resonance in the traditions and the culture, and is in many historical contexts consistent with the way in which they dealt with departures from socially acceptable conduct before the white system was imposed upon them. And therefore it finds its natural constituency in the Indian and Metis community.

I personally believe that if this idea works, where the whole community becomes involved in the healing process and in dealing with the results of crime, it will prove to be a most effective method. And it may well be that the larger community have much to learn from the aboriginal community with respect to this method of dealing with crime.

Heaven knows one of the worst things we can do, in some cases, is just to throw somebody in jail where they learn all kinds of really antisocial behaviour and emerge worse than when they went in.

**Some Hon. Members:** Hear, hear!

**Mr. Toth:** — Thank you, Mr. Speaker. Mr. Speaker, I have a further question to the Minister of Justice, and this again relates to young offenders and it relates to the recently . . . Recently the Department of Social Services made a grant of \$32,000 to Regina Treaty Status Indian Services Inc. for the purpose of providing culturally appropriate measures for young offenders.

And, Mr. Minister, what we'd like to know are: what exactly are culturally appropriate measures for young offenders and why are taxpayers being forced to spend \$32,000 on them? Again, why is one group being singled out for special treatment under the young offenders correction system?

**Hon. Mr. Mitchell:** — Well these, as the member well knows from a discussion during estimates, these are initiatives that are attempting to find new ways of dealing with old problems. Heaven knows we need to find new ways of dealing with old problems because the present ways just aren't working very well.

And the member is . . . there's no more eloquent spokesman for that point of view from the opposition side than the member. Indeed the member himself has generally approved of the sentencing circle approach, and we appreciate that. He did that during estimates.

We don't think that . . . Well there are a lot of problems out there. You look at the numbers and there are too many Indian and Metis people incarcerated, too many locked up in correctional centres, too many coming before the courts, and nobody feels that more than those communities themselves. They're desperately searching for an answer.

And we're trying to help them find an answer. And I think the member agrees with those kind of initiatives and that sort of approach.

**Some Hon. Members:** Hear, hear!

### Urban Municipality Act Amendments

**Mr. Swenson:** — Thank you, Mr. Speaker. Mr. Speaker, it's very evident that there must be going to be an election in this province soon because day after day we are faced with the situation in this House of standing up and asking questions and less than half the cabinet is here day after day to answer them.

And I have a classic point today, Mr. Speaker, where I want to place a question to the minister responsible for Municipal Government, and as usual, Mr. Speaker, there's no one here to answer the question.

**The Speaker:** — Order, order. Order. Well I the don't think the Government House Leader has any grounds to stand on when he himself in his answer referred to the absence of a member.

Order, order. I wish the member would refer to *Hansard* for today and then maybe apologize to the House for his error.

**Mr. Swenson:** — Thank you, Mr. Speaker. My question is to the minister responsible for Municipal Government. Madam Minister, section 81 of your new urban municipal Act gives the municipalities the right to enter into business. That's to compete directly with the private sector, Madam Minister.

Nobody seems to think much of the idea, Madam Minister. SUMA (Saskatchewan Urban Municipalities Association) voted against the idea for the last convention; 84 per cent of the CFIB (Canadian Federation of Independent Business) members who were polled are against urban governments going into business. And yet in the face of all of that you claim to represent urban government; you put it into your new legislation. Why is that, Madam Minister? Why do you need this change when the businesses and the municipalities have clearly told you not to do it. Why do you go ahead and do it anyway?

**Hon. Mr. Lingenfelter:** — Mr. Speaker seeing as we're allowing debate on a Bill here in question period, which is a little unusual, but seeing as it's being allowed, I will say to the member opposite that the minister has made it clear that we will be discussing with the municipal organizations, and if there are changes needed to the Bill, we will look very seriously at making those kinds of changes. And if the member has other questions on Committee of the Whole on the Bill I'd be more than pleased to answer them right now.

**Ms. Simard:** — Thank you, Mr. Speaker. I would like to ask

leave to make a statement.

Leave granted.

### STATEMENT BY A MEMBER

**Ms. Simard:** — Thank you very much, Mr. Speaker. I rise today to tender my resignation as Member of the Legislative Assembly for Regina Hillsdale effective as at the close of day today.

Early in February I resigned as minister of Health and minister responsible for the Status of Women and stated that I would be taking up a new career, probably in the legal field. Effective tomorrow, I will be returning to the full-time private practice of law with the law firm of MacPherson Leslie & Tyerman with whom I articulated when I graduated from law school.

I want to express my sincere thanks to the constituents of Regina Lakeview and Regina Hillsdale, whose extraordinary support has helped me better serve them over the last 9 to 10 years. I am greatly honoured to have had the opportunity to serve as an MLA (Member of the Legislative Assembly) for Regina Lakeview from 1986 to '91 and Regina Hillsdale from 1991 to '95. I leave this position knowing I have taken my responsibilities very seriously and I have done my utmost to serve my constituents to the best of my ability.

Although I am known for my work as minister of Health, I have also held a number of other positions from time to time. First and foremost, was that of minister responsible for the Status of Women.

Also, some of my responsibilities included: a member of Treasury Board, minister responsible for Saskatchewan Cancer Foundation, minister responsible for the Health Research Board and the Health Services Utilization and Research Commission, minister responsible for Saskatchewan Women's Advisory Council, and member during transition on Saskatchewan Power Corporation, a member during transition on the Souris Basin Development Authority, a member during transition on the SaskTel board, minister responsible for the Centre of the Arts, minister responsible for Wascana Centre Authority, minister responsible during transition for the Public Service Commission, minister responsible for Saskatchewan Alcohol and Drug Abuse Commission, minister responsible for mental health advisory and for the Provincial Health Council, and I also have the honour of being a member of Planning and Priorities for a period of this time.

Once again, I want to thank the Premier for having given me the opportunity to serve the people of Saskatchewan as a member of Executive Council. I executed my duties diligently and with a clear focus on the long-term benefit for the people of Saskatchewan. I appreciate very much the trust the Premier placed in me and I appreciate the opportunity he gave me to serve the people of Saskatchewan in this way.

To all my colleagues in this Legislative Assembly, both opposition and government MLAs, I wish you the very best in your career as members of the Legislative Assembly. I know

many of you put in endless hours of work for your constituents. Opposition MLAs and back-bench MLAs often work every bit as hard as cabinet ministers, but so much of what you do goes unnoticed.

I know as an MLA in opposition I, like many others, put in countless hours meeting with people, dealing with problems, and travelling throughout the province. The job is what you make it. And like anything else, you get out of it what you put into it. Your constituents have put their vote of confidence and trust in you, and if you respect this trust and fulfil your duties with integrity and diligence, you will have their support and appreciation. The very best to you, thank you for your camaraderie, your goodwill, and your support.

Thank you also to the Speaker and the officers and staff of the Legislative Assembly. Your help over the years is appreciated. The very best to you also. Once again, thank you to the caucus staff and to my personal staff; your loyalty and support is greatly appreciated.

Finally, thank you to my husband, the member for Regina Elphinstone, and our children, Paul, Marin, Matthew, Travis, and Sacha, whose support and enthusiasm made my job a little easier.

With these words, Mr. Speaker, I wish each and every one of you the very best. Thank you.

**Some Hon. Members:** Hear, hear!

(1415)

### ORDERS OF THE DAY

### GOVERNMENT ORDERS

### ADJOURNED DEBATES

### SECOND READINGS

#### Bill No. 53

The Assembly resumed the adjourned debate on the proposed motion by the Hon. Mr. Cunningham that **Bill No. 53 — An Act respecting Agricultural Operations** be now read a second time.

**Mr. Swenson:** — Thank you, Mr. Speaker. Mr. Speaker, Bill No. 53 is an Act that I think a lot of people in agriculture have wanted for a long time because it incorporates provisions for particularly livestock producers to not have nuisance lawsuits brought against them because of the type of farming operations that they do.

And this, as you know, Mr. Speaker, is often a source of irritation in a community, when you have things like liquid manure storage, when you have natural water bodies that may or may not be contaminated by livestock operations.

So what the government has attempted to do here, Mr. Speaker, is to provide a dispute settlement mechanism that will make

sure that when it comes to issues of odour, noise, dust, that there is something that happens before the farmer finds himself dragged into court and a lawsuit brought against him, which in many cases, Mr. Speaker, would entail tens of thousands of dollars, both in legal fees to defend yourself against the lawsuit, but also potentially having someone come through with a judgement against you that would say that you might have to relocate your operation or that you might have to make substantial technological changes.

And in the case of some of the present-day intensive livestock operations in our province, that would amount to many, many hundreds of thousands of dollars. You would not relocate a hog operation with 5 or 600 sows, Mr. Speaker, for less than those kinds of numbers.

So we have an appointment by LG in C (Lieutenant Governor in Council) that can consist of not less than three members, to go in and look at a situation, to mediate it, and to prevent court action being taken. Importantly, the minister can supply to the arbitration board any services that is felt necessary to fulfil their mandate. And that means legal counsel, consultants, technical advisers, because in many cases the situation that we're talking about involves people like SaskEnergy, SaskPower, Sask Water; it may involve municipal roads, may involve provincial highways, and indeed may be part of a zoning situation around a major urban centre.

A case in point was a lawsuit brought in my home community a year ago by an individual against a couple of feedlots on the west side of Moose Jaw and their plans to expand their operations. And it was quite a long- drawn-out affair, Mr. Speaker, and there was a lot of money spent by all with this thing. And at the end of the day the feedlots got permission to expand, but it was nip and tuck there for a while whether these businesses, which employ a lot of people and are a very necessary service to the agriculture community in Moose Jaw and area, were allowed to go ahead with their expansion plans.

And certainly, Mr. Speaker, we all are aware of the item that was in the news last year involving the current president of SaskPower, Jack Messer, and the fact that he'd brought a lawsuit against his neighbour because of a fly situation that occurred around his yard. He didn't like his neighbour's flies, and that ended up in a lawsuit. And the Department of Agriculture had to settle that suit and in fact pay Mr. Messer so that these flies wouldn't bother him. And in fact his neighbour ended up having to sell out to him and move out of the community.

Most farmers, Mr. Speaker, feel that that type of nuisance lawsuit simply isn't acceptable today. Agriculture, by necessity, is having to diversify. There are many farms in Saskatchewan today that have got livestock as part of their business plan now that haven't had for the last quarter of a century. The changes to the Crow rate, diversification, all sorts of things are going to predicate that farm families in this province in agri-business become more intensive.

And that means that you are going to have to seriously look at situations that may cause odour, insect, and other problems

associated with the production of value added products, whether that be beef or pork or a processing plant or changing the way you do your cropping rotations — all sorts of things that may put you in conflict with the ever-increasing urbanization of certain areas of the province.

It means, Mr. Speaker, that all of us now are faced with things like environmental impact studies, environmental impact statements, when you for instance go to borrow money. I recently took out a small loan, and I had to — and that was for some bred heifers — and I had to give the bank assurance that the particular land that I was going to use wasn't going to have certain problems attached to it.

And I recently asked FCC (Farm Credit Corporation) to lift the caveat that they had on a particular quarter because I thought they had already had enough security. And before they'd release that quarter, I had to go through an environmental impact statement on the remaining four quarters which remained under the caveat. And I found that rather strange because they asked me all sorts of questions about oil pollution and everything else.

But I guess it's a fact of life. It's a fact of life that, as we in agriculture continue to advance and continue to do things, we're going to be faced with the potential.

So I think it was important for the government to bring this forward. I'm hoping, Mr. Speaker — and these are questions I guess that the minister will have to answer in committee — but I'm hoping that what we aren't going to have here is a brand-new bureaucracy set up. I believe that there must be enough people inside of government today that can handle this situation without sort of reinventing the wheel. And that the fees, that the fee structure that this type of process is based on, is not going to go the way of every other agricultural fee that we've seen in this province in the last three years where we have seen dramatic increases across the board in the fees that farmers and farm families are having to pay.

And there are dozens and dozens and dozens of them, Mr. Speaker, that have doubled and tripled and quadrupled because this government has been so hungry for the cash of the taxpayer, in whatever way that they can, that they have increased those fees across the board.

So we'll be asking the minister what kind of fees schedule that he's going to put in place and what kind of a bureaucracy is going to be put in place, Mr. Speaker. And are what should be very simple solutions, going to be muddied up because of this government's penchant for interference?

Mr. Speaker, in the next few years we are going to see intensive livestock operations in particular, I believe, multiply in this province manifold. In my own constituency at present, people are trying to raise money to put in a 600-sow farrow-to-finish hog operation up by Central Butte. That many pigs is going to produce a lot of manure. That many pigs is going to produce a lot of odour. And that many pigs, Mr. Speaker, even under the absolutely best circumstances, is probably going to have a few flies attracted to that barn.

So as we see this happen across this province, we had best be prepared, Mr. Speaker, to realize that the bread and butter and the tax dollars that make this province go still owe agriculture an awful lot when it comes to putting the bottom line in place.

Mr. Speaker, I hope that during Committee of the Whole the minister's got the right answers to the questions that we'll be proposing. Because I think if he does, there's a lot of support around this province, at least what I've seen in the media to present, for Saskatchewan agriculture producers to be able to press ahead and diversify the economy of this province the way they know they can, without unnecessary interference by people who simply think that they're going to move out into the countryside and they're going to find a quiet, cheap place to live where they aren't going to have to pay as much taxes as they did somewhere else. And they're going to make sure that the neighbour down the road doesn't have any smell or flies or inconveniences, when that particular neighbour might have been in business for the last four generations.

So, Mr. Speaker, the potential is here for the government to do a every good thing for the province of Saskatchewan, and we'll have to wait and see how the minister's answers in committee show us if we are or not.

Thank you.

Motion agreed to, the Bill read a second time and referred to a Committee of the Whole at the next sitting.

### Bill No. 51

The Assembly resumed the adjourned debate on the proposed motion by the Hon. Ms. Atkinson that **Bill No. 51 — An Act to amend The Student Assistance and Student Aid Fund Act, 1985** be now read a second time.

**Mr. D'Autremont:** — Thank you, Mr. Speaker. I understand that the purpose for this amendment is to change the way in which certain costs are distributed in collecting student loans. Presently the student . . . and the program is administered by a branch of the Department of Education, and all the costs associated with that administration of the program is included in monies appropriated for that purpose by the legislature. Basically all the costs fall under the administration budget of the Department of Education and are not directly related to the student loans.

In the minister's second reading speech she stated that this arrangement has worked well in the past except for two situations, the first being when a student loan is sent to a collection agency; and the second is regarding bankruptcies.

The minister stated that the department turns loans which are seriously in default over to collection agencies, since the Department of Education does not have the resources to deal with those circumstances. And from that point, the collection agency charges a fee for their services, based upon the percentage of loan they recover.

For some time all the loans collected by agencies must be

deposited in the fund — that's the student loan fund — while the agency's charge must be paid out of the department's administration budget. She stated that this was impractical because it's difficult to predict how much will be collected in any given year and how much will have to be paid out in fees to collection agencies.

I'm not exactly sure why this figure is so difficult to estimate, since it has been that way for a number of years, and I'm sure that there are average percentages that fall into default and need to be collected. But I'll be examining that in the near future, Mr. Speaker. We're looking for information now to verify just what kind of percentages and how it has been collected.

(1430)

The minister of revenue . . . of Finance doesn't seem to have a lot of problems in estimating how much we're going to pay in taxes every year. So I should think that the Minister of Education, from her records, should be able to determine what would normally fall into default in the student loans, what the numbers of monies would be, and how much the collection agencies can recover of it. So the numbers should be reasonably simple to gather, Mr. Speaker.

In addition, Mr. Speaker, I would like to know exactly how much in average is spent on fees to these collection agencies; how many of the students end up declaring bankruptcy; how much in the end the province has paid to recoup sometimes very small loans.

The minister also mentioned in her second reading speech that current provisions caused difficulties in the case of bankruptcies. In some cases students file bankruptcy as a basis of inability to repay their student loans. At this point the province must retain legal counsel to challenge the claimed bankruptcy. And it seems that there should be an easier solution to this situation, Mr. Speaker. The Bankruptcy Act should exempt claimants from including student loans in their liabilities, and therefore saving everyone the time and money necessary to go through all the steps.

I believe at the present time that student loans are not collectible . . . or are not exempted because of bankruptcy. I realize that there are exceptions to this though, Mr. Speaker, yet those few exceptions are certainly not the rule. And it's time that straightforward solutions need to be found for these kinds of situations.

And the amendment in Bill 51, according to the minister, will alleviate some of the administrative problems. Under the new provisions, most administrative costs of the student aid program will continue to be budgeted for on an annual basis as they are now. However, monies which have to be paid to third parties like collection agencies and legal counsel under agreements for service related to the collection of loans in default will now be a charge on and paid out of the student loan fund itself.

In other words the cost associated with the collection of loans will be taken from the fund from which the loans were originally made and into which the loans are repaid. This will

have a negative impact, Mr. Speaker, on the student loan fund as less money will therefore be available to make loans.

As well, the minister has assured the Assembly that the new provisions do not transfer any costs from government to other parties, but instead just establish a more flexible method of handling some of the administrative details required under the program.

There are a few avenues that I have been researching on this particular Bill, Mr. Speaker, and I have yet to receive all the answers that I am looking for. Therefore, Mr. Speaker, at the present time I would move adjournment of the debate.

Debate adjourned.

### Bill No. 52

The Assembly assumed the adjourned debate on the proposed motion by the Hon. Ms. Atkinson that **Bill No. 52 — An Act to amend The Teachers' Federation Act** be now read a second time.

**Mr. D'Autremont:** — Thank you, Mr. Speaker. I've had time to review Bill C . . . Bill 52 — I'm thinking of Bill C-68 too much; I'm getting my C's in there — and for the most part believe that it's simply a housekeeping Bill, Mr. Speaker.

Under this Act the Saskatchewan Teachers' Federation or the STF has a wide range of responsibilities, and they must set and maintain high standards of professional competence and conduct among all teachers in the province. And in some cases they must administer disciplinary action against teachers who violate those standards.

As well the STF deals with professional development and teacher welfare and negotiations on behalf of teachers for benefits, pensions, and teachers' contracts.

The role of teachers seems to be expanding each year. Many must now administer medications, deal with student violence, young offenders in their classrooms, as well as ensure the well-being of those students who are malnourished or abused. Teachers don't have it easy, Mr. Speaker, as I'm sure you're aware. And no organization knows that more than the STF, whose membership is around 12,000 or so.

I understand Bill 52 is designed to overcome a few of the internal and professional situations that have come up in the past. The amendments deal with regards to the internal issues that have to do with the voting criteria on matters before the federation council, the composition of the executive, and procedures by which elections of the executive are conducted.

In short, routine matters before council will now pass with a majority of votes cast rather than requiring a majority of all those present. It also makes it possible for the executive to maintain a consistent number of members in the years when the president is re-elected and there is no past president because the past president is only allowed to remain in the position of past president for one year and then must step aside. If the president

that was in place during that year seeks re-election and is successful, they run into a situation where there is no past president.

As well, Mr. Speaker, a new provision is being added which will make it clear that a conviction for a sexual offence under the Criminal Code constitutes professional misconduct. It allows the STF to adopt a zero tolerance policy in which criminal convictions related to sexual assault which will automatically result in guilty findings of misconduct. In other words, a sexual offence conviction will be defined as professional misconduct and automatically be grounds for immediate dismissal of a teacher. This is a provision which I believe should have been adopted some time ago, and I'm pleased to see it in this present legislation.

Further, Mr. Speaker, the Bill provides for a situation where teachers avoid disciplinary action by simply resigning as teachers and giving up their membership in the federation. The federation will now be granted the additional authority to discipline a teacher if the teacher was a member at the time proceedings against the teacher began and in the case where the teacher ceased to be a teacher less than two years before proceedings were initiated.

The Bill does not address situations where a teacher is found guilty of sexual offence in one province and moves to another and is allowed to teach again. We must draft some sort of interprovincial agreement, Mr. Speaker, that will protect students against situations such as these. We hear of these circumstances, and while they are rare, we need to make provisions to make them even more so, Mr. Speaker.

Mr. Speaker, that jurisdiction doesn't fall under The Teachers' Federation Act, and so it must be addressed by the provincial government in other legislation.

Lastly, Bill 52 deals with updating gender neutral language. Instead of "chairman", the Bill reads "chairperson," and so forth, Mr. Speaker. These are standard changes which should be updated in all previous legislation as it comes to the Assembly.

I have met with Mr. Fred Herron and Mr. Dwain Drew, president of the STF, to discuss the ramifications of Bill 52. And I'm confident that these changes are needed in order to make it easier for the federation to fulfil its mandate.

However, Mr. Speaker, I have a few questions that I must receive answers to before I would like to go to full speed ahead on this legislation. Therefore, Mr. Speaker, I would move at this time that we adjourn debate on Bill 52.

Debate adjourned.

### Bill No. 35

The Assembly resumed the adjourned debate on the proposed motion by the Hon. Mr. Lingenfelter that **Bill No. 35 — An Act to amend The Department of Economic Development Act, 1993** be now read a second time.

**Mr. Martens:** — Thank you, Mr. Speaker. I have just a few things that I want to add to the discussion. In the minister's statements to the House, the minister states that this is a simple housekeeping Bill, and it certainly on the surface appears to be just that. However we have all long since learned not to take everything the Minister of Economic Development says at strictly face value.

The apparent effect of this Bill is to extend the loan powers of the Minister of Economic Development with specific reference to the new northern development fund. It allows the minister to set interest rates and terms of loans and allows him to sell off seized property from default . . . sell off seized property from defaulted loans.

This, as the minister says, corrects a gap that was caused by the repeal of The Economic Development and Tourism Act. I note however that there are a couple of things that the minister is not telling us. First of all, I have to wonder why this was not done . . . not put into the original economic development 1993 Act if it is such a standard provision.

Second, it seems to me that the government already has the powers described through the provisions of clause 16 of the original Act, which allows the Lieutenant Governor to set regulations for anything mentioned in the Bill, specifically including loans. Of course this provision requires regulations to be passed by OC (order in council) and published, while this Bill allows these matters to fall entirely under the minister's discretion. I

It is also noteworthy that the minister tries to distract us in his speech by saying that this Bill only impacts on the northern development fund. Of course this is the most immediate impact of this Bill and I'll have more to say on that in a few minutes.

However what the minister would again like this House to ignore is that the provisions of the old economic and tourism Act referred exclusively to the northern revolving fund. This Bill expands the minister's discretion for the entire length and breadth of his department. It allows this minister to strike deals with whomever he pleases, under whatever conditions he pleases, with no reference whatsoever to either this Assembly or even to the cabinet. Our caucus believes that this is a very dangerous move and we oppose it.

Like so much else this government has done, it runs contrary to the fundamental tenets of responsible government. As well, given the substantial funds that this department controls, we believe that the taxpayers of this province will be very poorly served by this broad fiefdom being afforded to the minister's office. However, let us leave this discussion aside for the moment as these are issues that we will be exploring in much greater depth in committee.

Since the minister in his remarks waxed eloquent about the new northern development fund, I would also like to take a few minutes to address the government's northern economic development initiatives, and indeed it's economic development strategy as a whole.

The minister says that the main reason for this Bill is to bring

the provisions of the new northern development fund more into line with the old northern revolving fund. Our caucus is certainly in favour of promoting the special economic development needs of the North and we have long been supporters of programs such as the northern revolving fund.

However it looks like the government took the idea of a revolving fund a little too seriously. They seem to have just revolved the old program into a new one that has much the same mandate and guidelines. They're really doing nothing new for the North; they are just recycling old programs so that they can make impressive news releases.

I suppose our caucus should be flattered that the current government thinks the previous government's programs were so good that the best they can do is imitate them. While this may be a clever political strategy, it is very poor economic development strategy.

It illustrates all too well the poverty of ideas that exist on the opposite side of the House. The very title of the economic development Act points to this. It used to be Economic Development and Tourism, but this government was so useless in developing tourism that they finally just threw up their hands and gave up and let somebody else do it.

This isn't a bad idea at all for this entire government. Just give up and let someone else take over, because it is clear that you do not know what you're doing.

Yet in spite of their own admissions of incompetence, the Minister of Economic Development has the gall to come before this Assembly today and ask for more powers. Why should we give him more powers and more discretion when he has failed so miserably in exercising the responsibilities he already has?

This is the hypocrisy of this government that this Bill so boldly highlights. On the one hand, this Bill contains a stark admission that this government has no ideas and wouldn't know what to do with one if they did. On the other hand, this Bill comes before us, asking the Assembly to expand the government's range of options for displaying their incompetence. Mr. Speaker, it is amazing that such a short Bill can say so much about the state of affairs in this province.

However when you have woven the kind of web that this government has, you cannot make even the smallest move without getting caught in your own traps. Again, Mr. Speaker, our government . . . our caucus does not support this legislation. Thank you very much.

Motion agreed to, the Bill read a second time and referred to a Committee of the Whole at the next sitting.

(1445)

#### COMMITTEE OF THE WHOLE

#### Bill No. 7 — An Act to amend The Apiaries Act

**The Chair:** — I will ask the Minister of Agriculture and Food to introduce his officials to members of the committee.

**Hon. Mr. Cunningham:** — Thank you, Mr. Chairman. With me today I have Mike McAvoy to my left, Merv Ross behind me, and as well the deputy minister, Dr. Hartley Furtan.

**Clause 1**

**Mr. Swenson:** — Thank you, Mr. Chairman. Welcome, Mr. Minister, and your officials. I have very few questions on The Apiaries Act.

I understand that this Act goes further than what we've had in place for some time with the American border, and you're now proposing, on both the Alberta and Manitoba borders, to have controls in place . . . the movement of bees and associated equipment. Is that true? And would you please tell me, if that is true, how you plan on enforcing that?

**Hon. Mr. Cunningham:** — The provision in the Act that allows closure of borders has been there for a long time. In fact we closed the border I think about two years ago to hives coming in.

What this amendment to the Act is doing is clarifying the provision about packaged bees. The Act doesn't clearly spell out that we have the ability to close the border for packaged bees as well, and the industry has been asking us to clarify this so that it's clear that the borders are also closed to packaged bees.

**Mr. Swenson:** — Okay, I understand that, Mr. Chairman. Would you tell me how you're going to enforce it, is what I'd like to know. Can you give me some indication of what you have in mind for enforcement, both for the honey-bees and I presume this applies to chalkbrood and leafcutters also.

**Hon. Mr. Cunningham:** — This Act does not apply, or the conditions do not apply, to the leafcutter bees. They are for honey-bees. We rely mostly on the industry to inform us of breaches to the Act, and they're enforced then through the court system and fines, if somebody's in violation of the Act.

**Mr. Swenson:** — So in other words you're telling me that it's basically a self-enforcement thing, that you're relying on one producer to tell on another, sort of situation, is the only way that you can reasonably come up with enforcement of this Act?

**Hon. Mr. Cunningham:** — We have a provincial apiarist who obviously is watchful in the industry, but it's not . . . we don't have bee inspectors out guarding the border. We rely mostly on the industry to let us know of breaches to the Act.

**Mr. Swenson:** — Can you, Mr. Minister, just give me . . . say an individual at Tisdale or Nipawin says so-and-so has got material from, I believe, Manitoba in his operation. Can you describe to me the process that would go forward that might bring about this \$5,000 fine that you have increased from \$500?

**Hon. Mr. Cunningham:** — Our provincial apiarist would investigate. And if he determined that that was true, it would then be turned over to the RCMP (Royal Canadian Mounted Police) and the justice system.

**Mr. Swenson:** — So it would be up to people outside of the Department of Agriculture then to press forward with any charges that would arise out of this Act. Would your provincial apiarist be called upon to, you might say, be the expert witness in this situation?

**Hon. Mr. Cunningham:** — Very likely that he would be.

**Mr. Swenson:** — I place these questions to you, Minister, so that we can clearly understand process. Having been in the bee business for 25 years myself, most people in the industry are rather independent and don't talk a great deal about some of the aspects of their operation. And I find the honey guys not too much different than the leafcutter guys — we're a little bit of a different breed. And I hear a lot of discussion at annual meetings about what's the appropriate means of making sure our industry stays disease free, and it is a big concern these days in both of them and some people use both of the bees side by side with some diseases transferable.

But people are very hesitant to, I guess, turn themselves into part of a secret police organization who has to think about telling on their neighbour or everybody being so guarded about their operation. And it doesn't do a lot, I think, for some of the new agronomics that should be talked about among producers. So that's why I was curious as to the process here that you envisioned happening in order to enforce the Act.

An Act is only as good as its enforcement, and I guess we'll just have to see what the first few cases look like when there are charges pressed, in order to see if this is living up to the expectations of producers around the province. I know they all want it. But at the end of the day, I'm not sure anybody wants to tell on their neighbour, and that's the real crunch.

So I just say, good luck with it. And I guess people in the industry will watch, and I don't have any further questions, Mr. Chairman.

Clause 1 agreed to.

Clauses 2 to 6 inclusive agreed to.

The committee agreed to report the Bill.

**Bill No. 25 — An Act to amend The Farm  
Financial Stability Act**

**The Chair:** — Does the minister have additional officials for this? If so, if you'd introduce them to the committee, Minister.

**Hon. Mr. Cunningham:** — No, we have the same officials, different chairs.

**Clause 1**

**Mr. Swenson:** — Thank you, Mr. Chairman. Mr. Minister, the whole area of the feeder and breeder loans associations has gone through a lot of change over the last few years since it was started. And I think most people in the cattle industry tell me

that they've been a good thing for livestock production in the province. That we have seen a significant increase in the size of the cow herd, that more animals are having value added to them than were previously the case. That people who might not have been able to re-enter the red meat sector have been able to do that because of the associations.

They are not without problems, because like most things in life, they are prone to the errors of humanity. And certainly there's a few situations have arisen in the last year or so that point out that one individual can make a hell of a mess out of a lot of other people's hard work.

And I'm wondering if you might sort of give us a run-down of where you see the associations going, given some of the problems that have arisen where we've had allegations of fraud and misappropriation of funds by people who were charged in the management area, and if you see that being an impediment to the future of these associations.

Are they workable? Are these things . . . can they be worked out so that they don't impact on the entire program? And if it has legal niceties you can't comment on, I appreciate that. But could you give us your view of where this part of the agricultural industry is going?

(1500)

**Hon. Mr. Cunningham:** — Yes, Mr. Chairman. The feeder-breeder association loans have been a very successful part of Saskatchewan agriculture, and we have a large number of these in operation. They are generally very successful. The loss rate is very, very low. And once or twice that we've had losses, as the member points out, have been under circumstances that were somewhat regrettable.

The difficult part of these loans is that not only do taxpayers have their backing in it, but individual producers contribute a portion of their investment to a fund which then covers for other members in the association, so we obviously want to keep these to an absolute minimum, and to none at all would be even better so that people who are in them would not lose their money.

Part of their success has been that because individual members have money at risk, they tend to be somewhat self-policing, and they certainly have been very successful.

One of the things that we've done — and we've done a number of amendments to this Bill, trying to tighten it up all the time and to prevent the regrettable instances occurring, and I think we've been successful — one of the things that we've done under administration, not without . . . without changing the Bill, is we've forced a board of directors to take more direct involvement, broaden the base out so that we don't have one or two people with signing authority within the organization who might take some risks or cut some corners or indeed commit fraud in extreme cases. So that's one of the things that we've done, and we think we have this under control.

There's only one or two incidences that have occurred, but that's

too many. And we're trying to tighten it up as best we can. And I think we're being successful at it. And it continues to be a useful tool for Saskatchewan farmers.

**Mr. Swenson:** — Thank you, Minister. I don't intend today to get into specific circumstances, but I do intend during your estimates to visit this situation further because there's a couple of situations out there that I think need a little more exploring. They've been ongoing for a number of years.

And I'm told that people are less than happy with the way the bureaucratic response has been to certain circumstances. I don't think it would be fair in this particular Bill to get into that, but I can tell you during your estimates that we are going to have that discussion, and there's a number of people that have asked me to pose certain questions to you, and they want to watch on TV as we go through that process to see what your responses are.

I've taken the opportunity to consult with most of the groups involved in the cattle business with this particular Bill, and by and large they have been supportive of the changes because they do allow repayment to happen in a different way that will be more advantageous to the associations and to the members. I think by and large they all recognize that members of associations have to be committed in order to, as you say, remain accountable to the taxpayer because we're talking about very large guarantees here. I would guess this program is probably well over \$100 million at this stage in guarantees around the province of Saskatchewan.

Mr. Minister, does this Act, as you've structured it, allow to form . . . can different type of an entity than what you presently constitute a loans association, can a Pool or a cooperative that's different share structure, can they . . . What would be the limit, I guess, for you to recognize a group coming forward with a proposal on these associations?

And there is some concern out there that the Pools, for instance, have looked at this as a way to move in and access public money. And I guess that's the question that's being asked to me. What do you see as the outer limits of being able to access money through these programs?

**Hon. Mr. Cunningham:** — At the present time under the Act, it is restricted to individuals; corporations don't qualify. As well, each individual member has a limit of \$150,000. And there's no contemplation of opening that up to other groups or to raising that limit for individuals. So right now it's very targeted at small family farms, sorts of operations.

**Mr. Swenson:** — So there's no anticipation that . . . What would be the case for instance of a corporate entity right now? I have a family farm corporation that has three shareholders. What is the upper limit on a farming corporation and the number of individuals that could apply?

**Hon. Mr. Cunningham:** — Right now there is no limitation on that. We would not accept the corporation, but each member would be eligible to apply. Again they have to have approval of the association. They have to have approval from lending institutions that they are reliable and have a security. But there

wouldn't be a limit on the number of individuals that could apply although the corporation wouldn't be eligible.

**Mr. Swenson:** — Okay, so there would be really nothing to prevent individuals who are shareholders in another organization from each deciding that they could access this money and then, because they were shareholders in that other organization, also use it to their benefit as far as raising agricultural products, namely cattle.

**Hon. Mr. Cunningham:** — That's correct. Somebody could have feeder financing through Sask Wheat Pool, but could still . . . wouldn't disqualify them from being a member of a feeder co-op.

**Mr. Martens:** — Thank you, Mr. Chairman. You have one part of the Bill that talks about the associations being responsible for taking all the proceeds from a sale of a particular commodity, like calves in the feeder association . . . or calves in the breeder association or cows, making their loans . . . making the requirement that they be paid to reduce the loan. Because that's a five-year loan, is it my understanding that it's only the value of what is payable for that year, or is it for the whole loan?

**Hon. Mr. Cunningham:** — Yes, that's what one of the amendments that we're proposing does — clarifies that, that it's only for that year's loan that has to be deducted, that year's payment. They can pay more if they want but this amendment clarifies that all that they have to pay is the portion of the loan that's due in that year.

**Mr. Martens:** — If the individual sells cows on a breeder program, does that mean that he has . . . only has to pay back that portion of the money required for that? Or is it against the whole loan?

**Hon. Mr. Cunningham:** — Yes, it would be the prorated amount on that individual animal. So if there's still \$500 owing on that particular cow, that would have to be paid off, but the balance of that would not be required to be paid on other animals.

**Mr. Martens:** — I believe the producer can trade cows for ones that he would want to sell — am I correct on that? — and/or replace a dry cow. And that's usually the reason why they're being sold, they're either old or aren't in calf. Would the same conditions apply to that individual if he's going to trade a cow and brand it with a producer association brand? Is that applicable under these circumstances?

**Hon. Mr. Cunningham:** — Yes, the producer would be allowed to replace a cull cow with a cow of equivalent value and then have that cull cow transferred to his ownership and be able to keep the proceeds of sale from it.

**Mr. Martens:** — Would you be able to tell me how many cows we have under this program in the province, for the plan, and then give me the value of the guarantee and the estimated value of . . . Well I can estimate the value of those cows. But give me the volume of cows and the value that the guarantee is on the cows.

**Hon. Mr. Cunningham:** — We have about 35,000 cows — we don't have the exact number here — and I think last year they were at an average value of about 925 or somewhere in that neighbourhood. The total guarantees under the program, including the feeders and the breeders, is \$44.5 million.

**Mr. Martens:** — Another point that is made here deals with how the association handles their liability when there is a potential of a default. Can you explain that process to us so that we have a clear idea on how this works?

And there have been a number of serious problems that have occurred in one part of the province, and I just was wondering how . . . and you don't have to reflect on how that one is done, but how would normal procedures be dealt with when there is a default from a producer association on the loan guarantee?

**Hon. Mr. Cunningham:** — The steps in the procedure would be that all purchases to that association would be stopped immediately. The association would then collect or attempt to collect the money from the member who is in default. Failing that, the lending institution would then have access to the insurance fund that the members contribute to, and if it that's not adequate, then the government guarantee would kick in.

**Mr. Martens:** — All of the producers who belong to the association would have to relinquish their dollars in the assurance fund in order to offset that individual's losses. Am I correct there?

**Hon. Mr. Cunningham:** — That's correct.

**Mr. Martens:** — So the government guarantee in effect is the last guarantee if all other avenues are covered: first of all, the sale of the animals of that individual, then the involvement of the assurance fund of all those other individuals who are in the association, who have assurance funds in there.

What about the area of and the responsibility of the association if they have not got very much money in the fund. And then the other question . . . and then does that trigger more money coming from the provincial government? And then I've got another question for you.

(1515)

**Hon. Mr. Cunningham:** — Yes, the members are required to have 5 per cent of their purchases set aside in the assurance fund on the feeder association and 10 per cent on breeder loan. So that's absolutely correct. If it's a large association and a lot of members, they would more likely to be covered by the insurance fund. If there's a small amount of money in there, then it's more a risk to government. But that's the way it works. First the assurance fund goes, and then government guarantees kick in after that.

**Mr. Martens:** — On the default, can there be a crossover between a default in the breeder plan and a default in the feeder? Can there be a crossover from the breeder to the feeder?

**Hon. Mr. Cunningham:** — No, there's no crossover either with the cattle or with the assurance fund.

Clause 1 agreed to.

Clauses 2 to 9 inclusive agreed to.

The committee agreed to report the Bill.

**Mr. Swenson:** — Thank you, Mr. Chairman. I would just like to thank the officials for helping us out with the last two Bills, and look forward to seeing you.

**Hon. Mr. Cunningham:** — I would also like to thank my officials, and the opposition for their fine line of questioning. Thank you.

#### **Bill No. 21 — An Act to amend The Securities Act, 1988**

**The Chair:** — I'll ask the Minister of Justice to introduce his officials to the members of the committee.

**Hon. Mr. Mitchell:** — Mr. Chair, arrangements have been made to postpone the consideration by the committee of The Securities Act. And so with the consent of the House, we'll just hoist that on to the next day.

**Hon. Mr. Lingenfelter:** — According to . . . (inaudible) . . . I move the committee report progress.

#### **Bill No. 45 — An Act respecting Trading in Real Estate, the Real Estate Commission and Brokerages, Brokers and Salespersons Trading in Real Estate**

**The Chair:** — I'll ask the Minister of Justice to introduce his officials.

**Hon. Mr. Mitchell:** — I thank you, Mr. Chair. I have with me today Mr. Jim Hall, the Superintendent of Insurance in the Department of Justice; and Ms. Linda Ens, a senior policy analyst with legislative services in the Department of Justice.

#### **Clause 1**

**Mr. Toth:** — Thank you, Mr. Chairman. Mr. Minister, I note that you have two individuals that we did have the opportunity of sitting down with recently in the office to go through the Bill. And one might add, well maybe there really isn't anything to add since I've had the privilege of sitting down with officials, but I think maybe it's appropriate we do address some of the issues.

I understand that basically, rather than just amending an old Bill, you've taken the time, your department has taken the time, to basically look through the whole Act and come in with a totally new Act. And maybe you could update us on that, the reasons for it, and the involvement the real estate association brokers may have had in the bringing forward the different sections of the Act, the changes that would have taken place, and the ideas and reasoning behind it.

**Hon. Mr. Mitchell:** — Thank you, Mr. Chair, and to the member. A two-year process has gone into the development of this piece of legislation. The 1987 legislation was very successful. And what it did was in effect make the industry self-regulating, and it has worked very well.

As you would expect with a new piece of legislation, there are problems that occur as you get experience under it. And most of the changes that are incorporated into the Bill before the committee today have come from the industry as a result of their experience in self-regulation. We decided to incorporate it into a new Bill rather than an amending Bill because it became obvious that the Act could do with some reordering of sections and reordering of parts, and that the understanding of the Bill as you went through it would be improved if that reorganization took place. And so we decided to go with this format.

Also the number of changes are not insignificant, and rather than present them with an amending Act to be read in conjunction with the Bill, we thought for the benefit of the industry it would be advisable to bring it forward as a new piece of legislation.

**Mr. Toth:** — Mr. Minister, I understand that under the new Act — and I'm not sure if it was something that occurred under the original Act as well — consumers will now be forced to make written offers on homes. Is that something that's been introduced just recently or part of the new Act; or is that in the Act, or was it a major concern regarding the Act?

**Hon. Mr. Mitchell:** — It was previously the requirement that an offer had to be in writing. The Act is being amended to require offers other than offers to purchase to be in writing, so offers to lease will be included. And it's expanded the scope of the kind of offers that are required to be reduced to writing. We see it as a consumer protection provision because the terms are set right down in writing and there will be no dispute as to the nature of the offer.

**Mr. Toth:** — Does this create any kind of an added cost to the consumer in regarding to the change of real estate or changing hands?

**Hon. Mr. Mitchell:** — No, it would not increase the cost to the consumer at all.

**Mr. Toth:** — An area that probably did have a fair bit of discussion — I'm sure the realtors association offered a number of suggestions on — is the disciplinary provisions that this Act brings forward. And it permits the Real Estate Commission to discipline realtors. Did the existing Act contain any disciplinary measures or were realtors basically protected from complaints?

**Hon. Mr. Mitchell:** — Mr. Chair, there were disciplinary procedures of course under the old Act, and they were sketchy in nature, leaving some of the procedures to be developed by by-laws of the commission. And that in fact happened. What we're doing here is taking those by-laws and putting them into the legislation. In so doing I think we have a . . . the procedure for this industry is consistent with the disciplinary

procedure for other industries.

**Mr. Toth:** — Mr. Minister, in bringing forward this section on disciplines, basically in the past who has initiated disciplinary measures? Would those come from consumers who may have felt that they've been mistreated by their broker or by their agent? Or is it a problem that . . . or has it been a problem within the industry itself and they felt they needed some measures or some guidelines whereby they could discipline members?

I'm wondering if you could just indicate the reasons for the disciplinary measures and how they were arrived at. Who basically brought them forward? Or is this just a matter of the industry itself trying to protect themselves, looking ahead as to what they might run into the future?

**Hon. Mr. Mitchell:** — Mr. Chair, the complaints that have come forward of a disciplinary nature have come from three sources in the past. They come from consumers, as the member has perceived. There are also complaints that come forward from fellow brokers who want to complain about the conduct of one of their fellow brokers. And a third source is from the commission itself in some of its spot audits. So those three sources of complaints are who initiates the process.

**Mr. Toth:** — And how would an individual go about initiating a complaint, and who would they raise the complaint with?

**Hon. Mr. Mitchell:** — The procedure is relatively informal. Complaints may be made in writing to the commission indicating the conduct complained of, with details of that conduct. Or a person can simply phone the complaints officer in the commission and discuss the conduct over the telephone; in effect, file the complaint over the telephone and that may initiate the process.

It's then in the hands of the commission and if it has any substance, it then is referred to an investigation committee and the procedures under the Act click in and apply.

**Mr. Toth:** — Mr. Minister, I wonder if you could tell us who makes up the commission that a complainant would file a complaint with and then maybe give us an understanding of the process that would be followed if a complaint is registered — how that complaint is followed up on, what review scenario takes place so that indeed, at the end of the day, if a complaint is raised against a certain . . . say it's an individual or a specific company, that that company doesn't find themselves tied up in the tedious process of defending themselves over a complaint that really may not have a lot of facts to substantiate it.

And I guess what I'm concerned about is that we do have a fair process and a process that does not tie up an individual's ability to continue to provide for themselves if a complaint is registered against them that may not have a lot of substance.  
(1530)

**Hon. Mr. Mitchell:** — The commission, of course, is constituted under the Act and consists of nine members, some of whom are appointed, some of whom are elected. The

commission has staff, of course, and among the staff is the complaints officer that I referred to earlier, who receives the complaints. This officer will consider whether there's any substance to the complaint at all, whether it falls under the Act, whether it consists of or whether it amounts to professional misconduct or some disciplinary offence under the Act. So there is that initial screening there.

If the officer feels that there is something that requires some further consideration, then the officer refers the matter to an investigation committee, which is referred to in section 34 of the Bill. That's established by the commission and the investigation committee is then seized of the matter.

The investigation committee look at it. If they require more information, they instruct the complaints officer to get that information and then consider the matter then in the light of what's before them and decide whether this is a matter that ought to be referred to the commission for a discipline hearing under section 37.

If there is a discipline hearing, it is heard by the commission. We're not sure whether that's going to be . . . most likely a committee of the commission. Most of the professional bodies designate some of their numbers to be the discipline committee, and that's likely the route that will be followed here. And the commission then hear and determine the complaint.

The complaints officer is in effect then the prosecutor with respect to the complaint, and of course the person complained against has a right to be represented as well, and the matter goes forward as usual.

**Mr. Toth:** — Mr. Minister, you indicated that the commission consists of four members appointed by the Lieutenant Governor in Council and five members elected by the registrants in accordance with the by-laws. Number one, who would be considered the registrants? Are we talking of the real estate association in general regarding the five members?

And secondly, the four members appointed by the Lieutenant Governor in Council — who would make the recommendations for the Lieutenant Governor in Council to make those appointees, or are basically those appointees just becoming another political base of appointment?

And I'm wondering if you could clarify that so we know exactly where we're coming from or where the government or the department is coming from in this regard.

**Hon. Mr. Mitchell:** — The five persons elected are elected by the registrants, which is everybody that's registered under the Act. And that's an election conducted by the commission itself.

Before members appointed by the Lieutenant Governor in Council are appointed on the recommendation of the Minister of Justice, and the department consults with everyone that has an interest. All of the organizations that have an interest in the good administration of this Act and in that process comes up with names of people who have a knowledge of the industry and are the sort of people that are likely to make a contribution

to the effective operation of the commission, and then the minister takes that recommendation to the Lieutenant Governor in Council for approval.

**Mr. Toth:** — Mr. Minister, would there be any reason why the commission would not have looked . . . or the department would not have looked at possibly having all these positions elected?

We may have our different views of opinion as to whether or not they will become just a political football down the road. And from your comments, you're suggesting that basically the Justice minister will certainly talk to the commission and seek their guidance in the appointment, but that view can change from one minister or one government to the next. And it would seem to me that . . . would it have been possible or would it be feasible to have had a totally elected commission versus part of the commission being appointed by Lieutenant Governor in Council?

**Hon. Mr. Mitchell:** — The structure of the commission is unchanged from the original Act in 1987. The member will know that before 1987 the industry was regulated by government, plain and simple, without the industry being involved in any way or responsible for the regulation of itself.

In '87 the board was set up in this way, and my understanding is that this set-up recognizes the obvious interest of the people registered under the Act in its operation — the brokers and the like. But it governs the trade in real estate, and there are obviously other groups that have some interest in that other than the people who are doing the buying and selling, or at least whose business it is to buy and sell real estate. So the board is set up in such a way to reflect those interest as well. And that's the reason why we consult on the basis that we do in appointing the four people by order in council. It's an attempt to ensure that on the board of the commission is reflected various points of view, various interests in the buying and selling of real estate.

**Mr. Toth:** — Thank you, Mr. Minister. Mr. Minister, when a complaint is registered with the commission, and you indicated that there possibly will be a specific investigation committee rather than all the total . . . or the number of members, all the members on the commission really, reviewing that matter, that that committee would then be asked to do an investigation.

When that complaint is registered, would an individual or a specific organization know that a complaint has been brought forward about their activities, or about maybe a possible conflict of interest? Or when would an individual know that they're being investigated? Would that individual just realize after the investigative committee has done their research and suggested that possibly a total review of an individual or a group's licence be looked into, is that when they'd be informed, or are they informed up front? How is a person notified or do they become aware of a complaint registered against them?

**Hon. Mr. Mitchell:** — The complaint, as I said earlier, is made to the responsible officer, and the officer looks at it and determines whether or not there's any substance to it. If it is just a complaint that doesn't fall under the Act, that's the end of it

right there. And the person against whom the complaint is made would probably never know that there had been this complaint.

If however the officer feels that there is some substance to the allegation, then it is likely that the alleged offender would be notified immediately and be given an opportunity to put the matter . . . to put his or her view of the situation to the complaints officer before the complaints officer refers it to the investigating committee.

I suppose that it could happen that the offence is so obvious that it just was referred directly to the investigation committee, but then that committee would have to notify the offender and get the perspective of the alleged offender before deciding whether or not to refer the matter to the commission for a formal hearing.

The investigation committee, remember, is just a screen between the laying of the complaint and any formal action with respect to the matter complained of. But so far as notice is concerned, I would fully expect that the alleged offender would be told by the officer that a complaint had been made and been given an opportunity to respond to it before the matter had even been referred to the investigation committee.

**Mr. Toth:** — So then what you're saying . . . what the legislation also brings forward . . . is that after an investigating officer has reviewed the complaint? That officer then has the ability — or the commission, I guess I should say — the commission then has the ability to determine whether or not they should pursue with the complaint or whether they could just consider that this matter is closed and done for. It really doesn't have any substance to pursue the matter any further.

In that case then, you may find what you're saying then, an individual may never have known that a complaint was laid against them, which I think may be appropriate; I don't know. I just kind of . . . If a complaint is fairly trivial in nature, really has no substance, then I guess there's not much point in creating a lot of anxiety in an individual's mind about a possible complaint that really may not have any substance.

And on that basis I guess it would be appropriate not to really raise the issue unless there is something of substance whereby the complaint . . . and then I would understand, if there is something that would indicate to the investigating committee that they should review this further, if I understand you correctly then, the complaint that was raised against an individual, that individual who had the complaint raised against him would then at least have the opportunity to refute the complaint against them before it proceeds further to the commission and into a full-fledged investigation, if I can use those words?

(1545)

**Hon. Mr. Mitchell:** — Yes. Let me just be sure that I've made myself clear on the various steps here.

Think, Mr. Chair, of there being three boxes here in connection with this process. The first is the complaints officer who

receives the complaint. Either it comes in in writing, or it comes in over the telephone. That's sort of your first screening device, if you like, to separate out the claims that are . . . or the complaints that are clearly not covered by the Act.

Then the second box is the investigating committee which is appointed by the commission and which reviews claims that the complaints officer thinks has some substance. And the function of the investigation committee is to determine whether this is a matter that ought to be dealt with as a disciplinary matter before the commission.

So the investigation committee is the second box. And the commission itself is the third box. And they each have somewhat different roles. Then the role gets more formal as you move through the three boxes that I've described.

The complaints officer will screen out, as I've said, the crank calls, the matters that don't have any substance to them at all, that don't fall under the Act. If, however, the complaints officer feels that this is a matter which has some substance to it, is covered by the Act, and if true would amount to professional misconduct or some other disciplinary offence, then the complaints officer refers it to the investigation committee.

Before doing so, we would expect the complaints officer to contact the person involved — the broker or whoever — and draw to his or her attention that this complaint has come in and what it's about and get from them the other side of the story. And then have that information on hand to present to the investigation committee and say here, we've got a problem. Here's the complaint. It's against Joe Doe, a licensed broker. I've talked to Mr. Doe and he says . . . and report that up to the committee.

Then the committee looks at it and considers what it should do. Does it have enough information to deal with the subject? In which event, as I said earlier, they may ask the complaints officer to go out and investigate other aspects of it or get more information. But at the end of the day the investigation committee has to decide whether this is a matter which ought to be referred to the commission under section 37.

Now certainly by that time the alleged offender has been contacted at least once, maybe more than once, and the process is apprised of the position of the alleged offender by that time. And then if it is a matter that should be considered by the full commission under section 37, then of course the alleged offender is a party — is in the position of an accused really — coming forward to be represented by themselves or by counsel to meet this complaint and try and establish their innocence of the complaint that is made against them. So that process should work; it should work without too much formality, and by the two screening mechanisms of the complaints officer and the investigation committee, keep away from the commission matters that don't have any substance.

As you say, they may not even know that the complaint has been made, or it may be something that can be mediated or explained when the proper context is understood, and it never does get to the point where a disciplinary hearing, as such, is

held by the commission.

**Mr. Toth:** — Thank you, Mr. Minister. Mr. Minister, I like your three-box scenario. It reminds me of a process that we went through with the auditor in this province, and he basically brought to our attention that if we thought of the finances of this province as far as three grain bins . . . we've got the general fund, and you've got the Crown corporations, and you've got pension plans over here, and yet they are all part of the overall picture.

Unfortunately most of the time we just look in one bin, and either we can determine whether we find it empty, half full, or full. And I'm not sure how the boxes totally fit here, but maybe the grain bin scenario could be used by your . . . you can pass on your box scenario to the Finance minister, so she can explain the financing of this province in a little clearer fashion to the people of Saskatchewan.

But coming back to the real estate Bill we have before us . . . and when a complaint is laid and after an investigation it is determined that . . . a more thorough investigation and a follow-up investigation, I guess, if you will . . . and I don't know whether you would call it charges or whatever the process or the forum is involved.

It would seem to me then that if a complaint is followed up, it feels that it is substantial and that there should be further review, the individual, whether it's a broker or real-estate agent . . . I guess what I'm coming to is, that person then . . . does the commission then determine whether to suspend an agent or take away their licence to operate while this review is undertaken? Or do we look at the review process as part of the ongoing format, and the fact that in this country we do believe people are innocent until proven guilty and that that individual is able to continue to operate their line of business while the investigation takes into consideration . . .

Because I'm not exactly sure if we've got some guidelines set out as to some time limits. If an investigation should be fairly time consuming and take up a fair bit of time and if you have a suspension — as we've noted in section 36, it talks about interim suspensions — then a person's livelihood may be at risk at that time. And I'm wondering, Mr. Minister, what kind of provisions have been brought into this Act to basically deal with those problems that may arise.

**Hon. Mr. Mitchell:** — The provision respecting an interim suspension is a new section, and arises because of something the member mentioned in his question. And that is when, under the existing law, someone against whom a complaint has been made can just keep engaging in the business until their hearing has been held, and if they appeal, until the appeal has been dealt with.

And there is in this Bill, section 36 as the member points out, which provides for an interim suspension. Now this is a suspension that is made by the superintendent. It's not a decision of the investigation committee or for that matter the commission, but is a decision made by the superintendent on the application of the investigation committee.

So if you consider that the investigation committee is representative of the industry, it is a situation where the industry feels that the complaint is so serious, of such a nature, that the right of the registrant, of the person against whom the complaint has been made, to sell real estate, buy real estate and otherwise carry on under the Act, should be suspended while this matter is being looked at, then they can make an application to the Superintendent of Insurance. And if they can satisfy him, as is the case now, or her, that this is a case where there should be a suspension, then an order can be made. Now that's a limited order.

You'll have seen that it only applies for 90 days, not more than 90 days. And so the other part of the process has to work within that limited time frame or the person can resume their normal activities after the end of the 90-day period.

The commission of course has disciplinary powers which include the cancellation of the registration or the suspension for a specified period and various other orders that can be made under section 38 of the Act.

I just think it is significant to notice though that it is the interim order which is made before any evidence is heard, before there is a hearing, it is not made by the industry. It is one where they have to satisfy the Superintendent of Insurance that such an order should be made.

**Mr. Toth:** — I guess the reason I raise that, Mr. Minister, and I raised it when we had our meeting as well, was the fact that unfortunately we've basically evolved to in our society, to a point where if a complaint or if a charge or some form of comment, derogatory comment, is made about an individual . . . in a judicial manner of whether or not that individual person or group have had an opportunity to have a fair hearing and even their day in court, the public at large tend to view individuals as having been guilty even before they've had that opportunity. And certainly a person in the real estate area too would . . . if disciplinary problems are brought forward, if indeed a licence is revoked for even that 90-day period, I'm sure that any individual may find themselves in that position, will find after 90 days that they may have fewer people willing to come and do business with them, feeling that they may not be the most trustworthy individual or individuals.

And I think it's very important that we at least have good, solid guidelines to make sure that we're not infringing on, first of all, basically passing sentence prior to the full investigation hearing being complete; and secondly, we also have to keep in mind the protection of the public as well, especially if it should be a case where . . . and throwing out a scenario, let's say a case of fraud was brought forward and of course the public want to be protected, know that they've got . . . the commission or the industry is policing itself.

So those are some of the areas that we need to be mindful of. And I'm sure the committee and your department were quite mindful of this when they were putting all the information together to build this Bill for the industry. And I know the industry itself is quite concerned. They want to build an industry that has a good, solid reputation that people can trust in it.

I'm wondering if you could just give us a bit of an explanation of the disciplinary powers that the commission does have should they, at the end of the day, in an investigation determine that yes indeed, the complaint was legitimate and that maybe a person or group abused their position. And what powers would the commission then invoke, what disciplinary measures would they bring into place, and how would they deal with misconduct of anyone under this Act, within the industry?

(1600)

**Hon. Mr. Mitchell:** — Mr. Chair, and to the member, the powers of the commission where they have found a registrant guilty of professional incompetence or professional misconduct, are set out in section 38 of the Bill. These powers are similar to and consistent with the powers that some of the professional bodies have with respect to their members.

The member will have noticed that there are disciplinary provisions in the 1987 Act. And what is happening here is that a bit more flexibility is being introduced into the range of orders that can be made by the commission.

In the most serious cases, the commission can order the cancellation of a registration. In less serious situations, they can order a suspension for a specified period, or suspension conditional on certain action being taken — sort of a suspension until certain conditions are satisfied.

There is also provision for the board ordering upgrading by ordering that the registrant complete specified classes or courses of instruction. And also an order that can be made is that the registrant obtain treatment or counselling, for example, if they had a substance addiction problem.

The section also gives the board power to order restitution. They may reprimand, which they would do presumably in a case that was not especially serious.

In addition, the commission has the power to order payment of a fine and payment of the costs of the hearing, which is I think standard fare with respect to these disciplinary bodies.

**Mr. Toth:** — Mr. Minister, would there be cases where a complaint raised and through investigation would be shown that the complaint may move beyond the abilities of the commission? And I'm talking of the fact is there a possibility that complaints could rise into a position of being a criminal matter whereby the commission would then suspend their review and would suggest it go further? Or how is that process handled? Or if a criminal matter is brought forward, if it becomes a criminal matter, and then the commission just divests itself of the investigation and allows the judicial system then to take over. I'm wondering if you could just update us on that format and how it falls into place in the scenario we have before us.

**Hon. Mr. Mitchell:** — Where either the commission or, in the step prior to that, the second box, the investigation committee believes that the conduct complained of may amount to a

criminal offence, the committee or the commission can stop what they're doing — either stop the investigation or stop the hearing — and report its findings to the deputy minister of Justice and to the Chair of the commission and to the Superintendent of Insurance, so that the system is apprised of the fact that this may be criminal conduct and more than just a matter of disciplinary proceedings under the Act.

**Mr. Toth:** — And while this is all taking place, an investigation is taking place, do I understand that the complainant and the individual who has a complaint laid against them would present their views during the hearing together, or is this done separately? Because I noticed in one area where the complainant is notified of a date of a hearing. And I'm just wondering if in notification are they just basically indicated that this hearing is taking place and if they wish to come and listen or sit in on the hearing, they have that opportunity. Or would they be coming specifically to be a witness or to be involved in testimony regarding the complaint that they had raised?

**Hon. Mr. Mitchell:** — In the normal case, Mr. Chair, this is a public hearing conducted along conventional lines. The complaint will be carried by the employee of the commission that I referred to earlier, the complaints officer . . . act as a prosecutor. Perhaps in some cases they will retain counsel to act. And it will be the fact that the complainant will be normally called as a witness to give evidence about what happened, because every person accused of a situation like this has the right to cross-examine and otherwise receive due process so that they will in effect be facing each other in the hearing room. The ordinary rules of natural justice then apply as to the disclosure of documents and the right to cross-examine and to make representations and call witnesses on both sides. And at the end of the day, the commission decides.

So it's not unlike all of the other mechanisms that are in place in similar situations in the professional statutes and certain other statutes.

**Mr. Toth:** — I noticed, Mr. Minister, that certainly we do have laid out a number of points as to what the superintendent may or may not do. And even an appeal, we see what the judge may or may not do. And at the end of the day, what does the individuals who had the complaint against them, what appeal process do they have?

And I would imagine they would have an ability to appeal a decision by the commission. Who would they go to if they feel that the commission has been unduly fair in laying out . . . taking actions against them? If it proceeds beyond the ability of the commission then into a legal matter, then what format of appeal would an appellant follow through to basically determine or indicate that they feel that they haven't been treated fairly? And in most cases, that's why an appeal would be brought forward. And what format would they follow, and then how would they go about re-registration after everything is said and done?

I guess you would have to, first of all, determine whether or not they were guilty of the complaint, whether there's substantial

evidence to substantiate it. If they are, then of course you then have to look through the process. And I think you talked about re-education and some upgrading and certainly some of the disciplinary powers the commission has laid out.

In the case of the courts, after a person's paid their due sentence of . . . as it's been laid against them, what format or process would they then follow through to be reinstated or again receive a licence?

Now I think I've got a fairly broad perspective, a number of questions I've raised with you here — whether you can remember them all — but maybe you could just comment on that for me, Mr. Minister.

**Hon. Mr. Mitchell:** — The decisions of the commission are appealable to the superintendent under section 43 of the Act. And that right to appeal is broadly based in the sense that the appeal may be taken either by the . . . well it arises in different ways under section 43. It may be an applicant who has been refused registration, but in the disciplinary processes, the registrant who has been found guilty of professional misconduct or professional incompetence can appeal. Similarly a brokerage may appeal. And those appeals are to the superintendent and must be brought within 30 days of the decision or order of the commission.

There is a further appeal to the Court of Queen's Bench, and that appeal is provided for in section 44. Those are appeals from the orders of the superintendent under either section 36, which is what we were just talking about, with the interim suspensions; or section 43, which is the one that I've just referred to, the immediately preceding section where the superintendent has heard an appeal and made an order contemplated by that section.

Those appeals must be launched within 30 days of the decision or the order, and the matter gets to the Court of Queen's Bench, before a judge of the Court of Queen's Bench, by serving a notice of appeal. And the matter is dealt with by the court in the usual way. The powers of the court are set out in subsection (4) of section 44 and cover every eventuality, every possibility.

The process is reasonably tight. Because it is to the Court of Queen's Bench, the matter normally to be brought on fairly quickly. The court hears these kinds of cases every week in Regina and Saskatoon, and less frequently in other centres — but you know, every second week, every fourth week, something like that. So the matters can get to the court without any particular delay.

Now the member also asked about reinstatement after the cancellation of a registration. The person in question would apply in the normal way and have to satisfy the commission of the normal things, the normal elements of an application, and I think have to satisfy the commission that they can be reinstated without any particular concern that the conduct may be repeated. The commission will handle that in the normal way and we have confidence they'd be able to do that.

(1615)

**Mr. Toth:** — Mr. Minister, what steps have been taken to protect, say, a consumer or consumer groups or a group of consumers? Say a complaint has been registered against a realtor and there have been . . . that realtor is in the position of basically dealing with a number of transactions and this complaint has been raised and an investigation comes forward and suggests that possible suspension of licence would take place and there's been a number of incomplete transactions kind of sitting on the table.

Who looks after those? What provisions have been . . . Are there any provisions in place that would address that so that consumers are not unfairly left in limbo until an investigation is totally completed while they've been trying to, say, close a deal on a land sale or a house sale or whatever? And I'm wondering if there's anything to address that matter. Or does somebody else . . . Does that then fall to another partner if you're with a group? Or how are those circumstances addressed?

**Hon. Mr. Mitchell:** — The superintendent is involved in these situations and the superintendent would normally, where there's any question of default or mishandling of money or a possibility of that exists, may step in and freeze the bank accounts of the individual or the business to protect the money. And then either, if there are partners or employees, have somebody else handle the transactions that the member speaks of; or if there are large transactions involved, if the volume is more than just run-of-the-mill, then the superintendent can go to court and appoint a receiver or a trustee to manage the business and bring these deals to completion.

And in that way the people who are dealing with the broker who is under investigation are not prejudiced. They'll see their transactions go through, but they will go through under the supervision of the superintendent, either by some person appointed informally, as I've just indicated, or by someone appointed by the court to ensure that the transactions are properly tidied up.

**Mr. McPherson:** — Thank you, Mr. Chair, Mr. Minister. I've got a few brief comments that I'd like to make today and then a few questions. And I want to begin, Mr. Minister, by emphasizing it's our belief that Acts governing professional associations in general are very important for the protection of the public, the professions, and those directly involved in the professions. Therefore it is important that we give the Bill before us appropriate consideration, I believe.

The amendments proposed, as well as The Real Estate Act itself, are very important and comprehensive. It is our position that the protection of consumers is of primary importance, and we commend the members of the real estate industry for recognizing this and working very hard towards this end.

I understand the review process began in October of 1992, and therefore I recognize a great deal of time has been devoted to improving the way the industry will be regulated. We know from our consultations with the Real Estate Commission and its members that they are very supportive of the review process which took place.

I agree with all those concerned that the current Act needs to be amended and clarified to ensure it meets the needs of the industry today and to enhance its protection for consumers.

Upon reviewing the proposed Act, we find a number of changes that would be beneficial to the public and to the industry.

First, we believe that allowing the registrar to register applicants under terms and conditions set by the commission should avoid unnecessary delays for the applicants. The clarification of the duties and responsibilities of all brokers, branch managers, and agents, will more accurately reflect the current practices of the industry, and we believe this is overdue.

The industry has evolved, and it is important that the proposed Act reflect those changes. We are also very pleased to see many amendments to the Act which will enhance the protection for the public. In general, several sections deal with providing consumers more accurate information and protection when buying and selling property. As well, the amendments to this Act clarify the rules of conduct for those involved in the real estate profession, and we know the members are pleased with this.

In general, we view the proposed Act as important and deserving of this Assembly's support. We have no objection, and we will be supportive.

However, as it relates to the government's role in dealing with professional associations and its consultation process, I'll be putting forward some concerns that we have in this regard.

First, there appears to be some inconsistency in the way that government deals with professional associations during the consultative process. Specifically, it appears there are inconsistencies in what some different associations are being told by the government, Mr. Minister. Time and time again, professional associations tell us that the government uses the excuse that they must do things a certain way in order to maintain government uniformity and consistency as it relates to writing or rewriting the proposed Acts. Unfortunately different associations are being told different things. And you, Mr. Minister, will probably want to make mention of that and perhaps why people would view that, when you're speaking later.

But this raises the question of fairness, relating to how the government deals with the associations on an individual basis. We know that this government has shown time and time again how ineffective and overly bureaucratic it has become. And we all know this type of approach does not serve the best interests of the public nor the professional associations that the government deals with.

Therefore I will have some questions in this regard, particularly as it relates to the government's demand of making the hearing process overly bureaucratic by adding an investigative committee. I'm told the government's reason for doing this was to make the hearing process uniform with other hearing procedures. It appears this added level of bureaucracy to the

hearing process will have no advantage and could make the process cumbersome and overly bureaucratic. As well, this new procedure will increase the cost to the commission and will not provide a fair hearing for the accused.

In fact I'm told the addition of an investigative committee may make the hearing process unworkable. I understand there may be some indecision as to when or how or at what stage this process . . . at what stage does the process allow the accused to enter a plea.

So, Mr. Minister, I've made several points that I guess I've raised that you may want to respond to. However I'll begin with just a few other questions.

I note that I think it's section 15 deals with the superintendent. And, Mr. Minister, I'd like to know why the superintendent who is appointed by the minister has only 30 days to approve or disapprove any changes to the by-laws.

(1630)

**Hon. Mr. Mitchell:** — Mr. Chair, the member raises a number of questions. We have been working on this for over two years with the industry, and we think we have a fair understanding out there of the minds of the commission and the other parties that have an interest in this. And our understanding is that the commission is satisfied with the arrangements that are described in the disciplinary part of the Bill.

That the investigative committee, as we understand it, is certainly not going to create any overly bureaucratic mechanisms and need not be any kind of big cost item. As a matter of fact, it'll probably be a cost reduction over time because it will result in the full commission having to hear fewer complaints. If you think a screening mechanism operating effectively can screen out complaints that ought never to have reached the commission, you then must conclude that the commission will have less work.

Therefore the formal proceedings will be fewer. The necessity to retain counsel will be . . . those occasions will be fewer. And overall it should be a cost reduction. It need not operate in any formal way; it could do its work perhaps . . . I can easily conceive how it could be done without formally gathering together -- with fax machines and with, you know, with the use of the telephone.

They could determine many of these things without having to get together. It's not contemplated that the investigation committee will hold any kind of formal hearings, but they will simply act as a screening mechanism between the investigating officers — the complaint officers on the one hand and the formal commission on the other. And it would seem to be a really excellent idea. And to repeat myself, our understanding is that the Real Estate Commission itself doesn't object to this mechanism at all and consider it to be kind of a healthy way to set this thing up.

**Mr. McPherson:** — Thank you, Mr. Minister. Well, you made mention about a cost savings; that was going to do some

questioning further down the line, but in fact we'll get into it right now.

Can you give me, Mr. Minister, some idea of what the cost of the investigative committee will cost the commission on average?

**Hon. Mr. Mitchell:** — I really am not in a position to answer that, Mr. Chair. It depends on how the commission set up the arrangements under which this committee will operate.

So I suppose that it's possible to conceive that they can set it up in a way that it would cost significant amounts of money, but on the other hand it would seem that the functions of the committee under the Act could be carried out without any undue cost. But I'm certainly not in a position to make any estimates.

**Mr. McPherson:** — Well, Mr. Minister, then I wasn't sure what your comments would have been as far as the investigative committee. By your feeling it wasn't going to be adding more bureaucracy, in fact there's a cost savings. But, I mean, of course you're saying you can't give me some idea of what the cost savings would be, but can you give me a quick sketch as to how this is going to make the hearing process a lot more fair?

**Hon. Mr. Mitchell:** — Well, my point, Mr. Chair, was simply that the process ought to result in the commission itself having to spend less time in formal hearings. I tried to put it this way. The investigation committee operates as a kind of screening device whereby the commission can ensure that the cases that go before the full commission for a formal hearing are cases of substance, and the commission's own investigation committee have looked at the situation and determined that this is a case that ought to be brought before the full commission.

Now in the ordinary course, if that screening device is an effective screen, you could only conclude that they would be screening out some cases that really shouldn't go to the commission. And the commission would then have fewer cases before it, have to sit for fewer days, and incur less costs.

And that's why I draw the conclusion that the net result of this is likely going to be that the administration of the disciplinary procedures will be less costly than they would be if the investigation committee wasn't there.

**Mr. McPherson:** — Mr. Minister, can you explain within the hearing process at what stage the accused would enter a plea?

**Hon. Mr. Mitchell:** — My answer to that question is that the formal notice of the complaint would be served pursuant to section 37(1), where the matter has been referred to the commission for a hearing and determination. And the registrar sends a copy of the formal complaint to the registrant whose conduct is the subject of the hearing, along with a notice of the date, time, and place of the hearing. So that is the first formal notification.

I've indicated earlier in my response to the hon. member for Moosomin that I would expect that the registrant would have

had an opportunity to present his or her side of the story to the officer who receives the original complaint, and if not to that officer, then while the matter is being considered by the investigation committee.

But in any event the formal notice would have to be given under section 37. And then on the hearing date, when the matter is to be heard by the commission, the procedures in these type of cases would require the person to, in effect, make a plea, make a response at the beginning of the hearing.

**Mr. McPherson:** — Mr. Minister, I'd asked a question a little while ago in regards to section 15 about the superintendent being appointed by the minister and only having, I think it was 30 days to approve or disprove any changes to the by-laws. And I'm just wondering if this is a standard procedure all throughout government, or can you give me some explanation of this?

**Hon. Mr. Mitchell:** — Sorry, Mr. Chair, that I didn't deal with that when I rose earlier. But the 30-day provision is short, and it's short for the convenience of the industry. The superintendent is close to this industry, keeping in regular touch with the commission, and it's an easy matter for the superintendent to respond under section 15 within 30 days.

In other situations, the response takes more time. For example, if the minister had to approve the processes by which . . . the minute you obtain ministerial approval, would just chew up more time than 30 days. I think you'll find that other statutes would give 90 days to a minister to do certain acts, maybe even longer.

But in the case of the Superintendent of Insurance operating under this Act, a 30-day time limit can be met. And that must be to the advantage of the commission because they'll know within a very short time frame whether the various things that are done are satisfactory to the superintendent. There'd be a minimum of delay.

**Mr. McPherson:** — Mr. Minister, I'm told that the Real Estate Commission would like to have seen the new home builders incorporated under the Act. This would prevent problems such as we have seen in the past when, for example, ready built homes — I'm not sure what the name of them was — defaulted and consumers had to absorb all the costs. The government did not allow the new home builders to become incorporated under the Act and I'm just wondering why that is.

**Hon. Mr. Mitchell:** — The exemption for people engaged in the business of home construction is an exemption that existed in the '87 Act and is being carried forward in this Act. It is . . . these people are engaged in building houses and they sell the houses that they build either through their own company or through some other arrangement.

They are in that respect similar to the first exemption under section 3, which is a trade in real estate by an owner of the real estate. That is to say, if you decide to sell your house yourself, you are not covered by the Act. You are an exception; you are exempt.

And the home construction people are in a similar kind of position except that they do it as a business. But they're not buying and selling other people's property; they just build and sell their own product.

The problem with the home constructors — and it certainly is a problem — is that on the occasion when the constructor goes bankrupt, becomes insolvent and leaves people holding a house that is half built or less than half built, not finished anyway, and they don't get what they're contracting for. And the reality is that this Act wouldn't address that problem even if the home constructors were included. So that we would not have resolved the problem that we've been reading about over the past couple of years even if these people were brought in under the Act.

So all things considered, at the end of the day we simply decided to continue the exemption.

**Mr. McPherson:** — So, Mr. Minister, then are the home builders . . . are you contemplating having an Act for just the home builders themselves?

**Hon. Mr. Mitchell:** — The home construction industry has approached us and we have been having conversations with them about the problem. We frankly don't know what to do about it at this stage. There is nothing in place anywhere in the country that really deals with this question of an insolvent or bankrupt home constructor. But discussions are going on and we are certainly open to participating in a solution to it if we can find something that looks like it might work.

(1645)

**Mr. McPherson:** — Mr. Minister, if you felt that the home builders couldn't be brought in under this Act — if I remember your earlier answer, you talked about to cover those that are buying and selling houses — so it would make one wonder why maybe the auctioneers couldn't have been brought in under the Act. Was that a consideration?

**Hon. Mr. Mitchell:** — Mr. Chair, as the member will appreciate, an auction is a much different way of disposing of property, selling property, than through a real estate agent. In our province, as elsewhere in this country, it's a matter for the vendor to determine how to go about selling his or her property. You can list it with an agent, or you can engage the services of an auctioneer.

We have an Act, a piece of legislation, in this province governing sale by auction, and it has provisions which apply to all such sales. So the person who places the property with an auctioneer, for sale, knows that it's being placed in accordance with the provisions of that Act.

Another point that I want to mention to the hon. member is that we are engaged presently in a review of that legislation to determine whether anything else is required to provide more consumer protection or more certainty with respect to auction sales. And the industry is being consulted about that.

But there is a clear separation between how a person chooses to

dispose of their property, and if they want one as opposed to the other, then that's really up to them.

**Mr. Toth:** — Mr. Chairman, a couple of further questions. Mr. Minister, I noticed that we have in place the real estate assurance fund — provisions for the setting and establishment of a fund. I notice there's a substantial sum of money, and in section 48(4) it talks about:

Income from the fund becomes the property of the Commission to be used for any purposes that the Commission considers proper when the amount of the fund exceeds:

- (a) \$250,000; or
- (b) any greater amount that may be prescribed in the regulations.

I'm wondering, Mr. Minister, is this section basically fall on the same provisions of the original legislation or is this a new area? And what would be the specific purposes of this fund?

**Hon. Mr. Mitchell:** — These provisions are substantially just carried forward, Mr. Chair, and to the member. The fund is the same. The administration of the fund is the same. The purpose of the fund is the same. The fund is intended to cover deficiencies for any money held in trust and that sort of thing. And there have only been a couple of claims against that fund over the years.

The money from the fund, the surplus if I can term it that, is used by the commission for internal education of the industry. And that, as far as I'm aware, is the only purpose for which the money is being spent.

**Mr. Toth:** — Another area, Mr. Minister, I just want to raise a question on is regarding trust accounts. And under that section that deals with trust accounts, we have a portion there, section 73, where it talks about unclaimed trust money. And I'm wondering what we really mean when we refer to unclaimed trust money. And section 73(1) also says:

Subject to subsection (2), where a brokerage holds money in trust for more than two years, the brokerage shall pay it to the Minister of Finance.

What I'm wondering is why would it be termed the Minister of Finance would get that trust money? Wouldn't that money be held for specific purpose in regard to a transaction? Wouldn't that money then fall to the original person or individual who would have put that money up, and that money is then put in trust? I understand money is held in trust until a transaction is completed. And I guess I don't totally understand why the money then would find its way to the hands of the Minister of Finance.

**Hon. Mr. Mitchell:** — The section as I understand it, Mr. Chair, is meant for the administration of the broker's business more than for anybody else's purpose. For example, if a person makes an offer and makes a deposit and then it doesn't go through and then the person just disappears, moves away and

doesn't do anything with respect to the money, the broker is sitting there with the money, having to administer it, having to keep records with respect to it. This provides a way that the broker can be relieved of the responsibility of holding the money.

Now there are provisions within section 73 that provide . . . that insert provisions that are important when we're discussing this. The first is that the trust arrangements continue if the broker has express authorization from the person who is entitled to receive payment of the money to continue to hold the money in trust so that a two-year provision is subject to whatever may be the provisions of the trust.

The second thing is that the Minister of Finance clearly holds the money in a trust-like provision because if a person comes along who is entitled to the money, then the Minister of Finance pays it to that person.

So I think we can properly look at it as a way to just relieve the broker of the responsibility of holding money where nobody seems to want it. They can close their books on it.

**Mr. Toth:** — I guess that's the question. I was just kind of wondering, at the end of the day when it ends up in the hands of the Minister of Finance, it's not necessarily just going into general revenue but indeed basically is in that state of limbo, yet in a position of being held in trust until the individual who would be responsible for those funds finally lays claim to it.

One other area that is brought to my attention — I thank your officials for raising it as well — I guess is a question regarding time-share programs. And I believe that . . . I'm not exactly sure. If I understand it, it is being addressed under regulations as it was something that must have been raised at the last minute and really wasn't in a position to be totally dealt with under the legislation we have here, although it has brought mention here.

And I'm wondering if you could just raise that with us, inform us as to the provisions that deal with time share and whether or not all the regulatory powers or regulations will be in place to address all the questions or the concerns that have been raised in this regard or that may have been raised regarding time-share programs in the past. So that this indeed will be covered under the legislation before it is finally brought into . . . and passed into being or into place, Mr. Minister.

**Hon. Mr. Mitchell:** — Mr. Chair, I want to thank the member for that important question. These time-share transactions came to our attention only relatively recently. I misstate myself. Some problems in connection with these time-share transactions came to our attention only recently.

They are in some cases being very aggressively marketed and marketed in a way that is just not in accordance with how we do business in this province in other aspects of commerce. And this section gives us the ability to regulate with respect to the problem, and we present it as the power to make regulations because this is a marketing area of almost unlimited variety.

You can be selling time shares on a houseboat or time shares on

a condo or time shares on a cabin and all kinds of permutations and combinations of arrangements. Canada is interested in this; other jurisdictions also. And we're going to try and work in cooperation with other provinces and with the commission to provide some protection to consumers in this area, to provide them with enough so that they at least aren't being victimized by the people who are peddling these time-share arrangements.

**Mr. Toth:** — Well I guess, Mr. Minister, the question that really comes forward, and I know we've had individuals who have indicated that they had been contacted by people who are trying to sell agreements to time share.

And yet what I find at the end of the day, from some of the people that I've talked to . . . as well you've bought access to this property. The time that . . . and certainly in Saskatchewan maybe there's some limited time to utilize some of this property, and you've got two weeks maybe in February. Well once they've made application, once they've bought access to the property, all of a sudden they find, well that property isn't available about the time they want to use it. And then it creates a major problem for them.

And I don't know if this addresses some of the concerns there or how people get around some of the questions that arise at that time, but I guess hopefully the regulations that are being imposed or brought forward through this legislation, under this legislation, will be able to address some of the concerns and maybe even go beyond that, regarding further complaints that may arise in the process of time-share agreements.

And I'm not exactly sure how much further to pursue the matter or how much further we may go on it, but I'm wondering if these provisions do address and will be at least flexible enough to address complaints that may arise in the future, Mr. Minister.

**Hon. Mr. Mitchell:** — I think the answer to that is yes. The member will see that the regulation-making power is cast very broadly and in very general terms, and we believe will be able to respond to the concerns that the member has mentioned.

The Assembly recessed until 7 p.m.