



THIRD SESSION - TWENTY-SIXTH LEGISLATURE

of the

**Legislative Assembly of Saskatchewan**

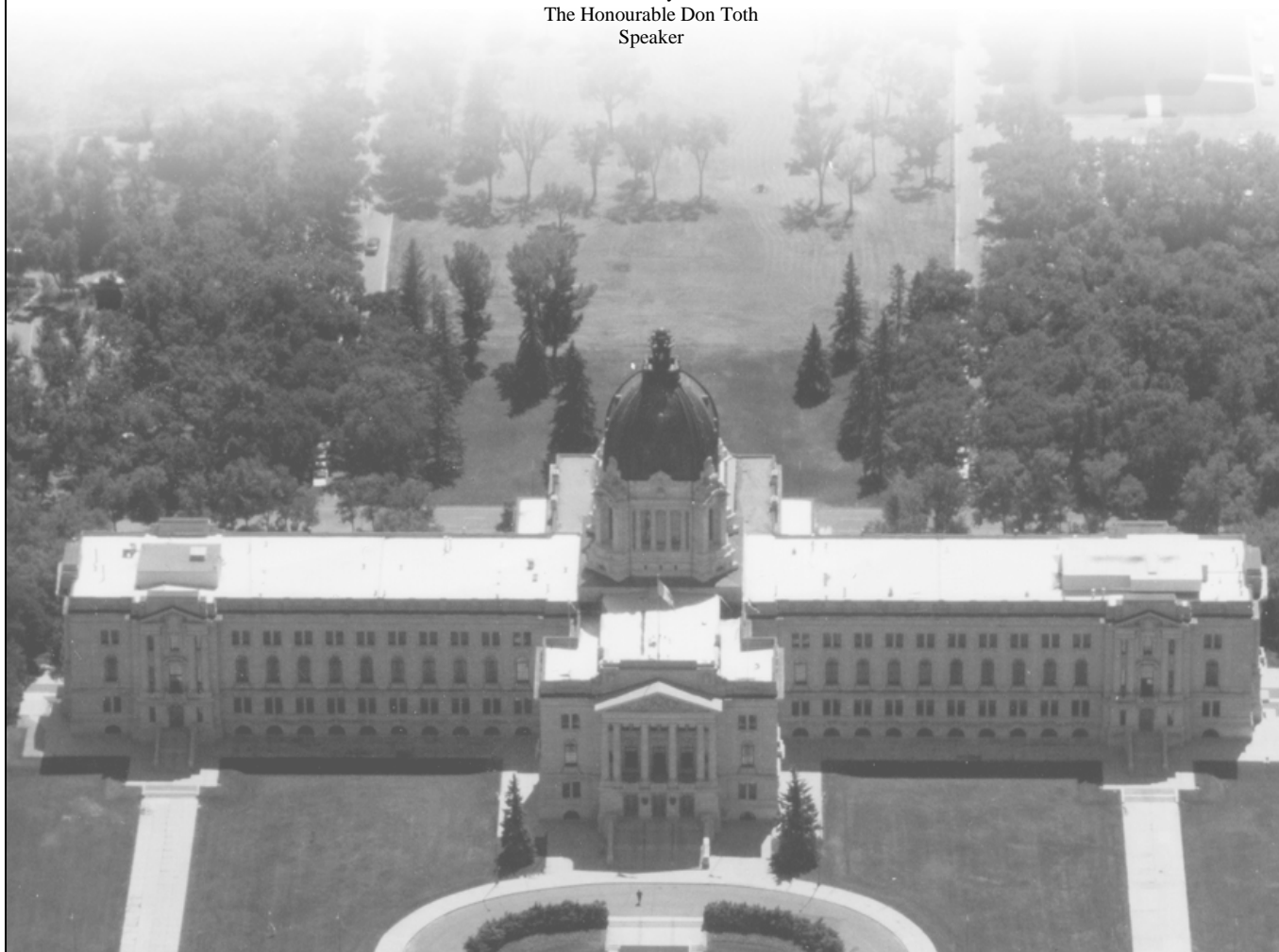
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**DEBATES  
and  
PROCEEDINGS**

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(HANSARD)

Published under the  
authority of  
The Honourable Don Toth  
Speaker



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[The Assembly met at 08:00.]

[Prayers]

**ORDERS OF THE DAY**

**GOVERNMENT ORDERS**

**SECOND READINGS**

**Bill No. 136 — *The Technical Safety Authority of Saskatchewan Act***

**The Speaker:** — I recognize the Minister Responsible for Corrections, Public Safety and Policing.

**Hon. Mr. Huyghebaert:** — Thank you, Mr. Speaker. Mr. Speaker, at the end of my remarks today I will move the second reading of Bill No. 136, *The Technical Safety Authority of Saskatchewan Act*, 2010.

Mr. Speaker, Bill 136 proposes legislation to establish the Technical Safety Authority of Saskatchewan. This new authority will provide regulatory enforcement and advisory services related to safety standards for boilers, pressure vessels, elevators, and amusement rides. Such services are now overseen by the Ministry of Corrections, Public Safety and Policing's licensing and inspections branch. The authority will also administer the associated safety statutes related to this equipment.

For the most part, the public is unaware that these services are being provided in the first place, yet there are thousands of such devices in use across the province every day. Here's the breakdown. Every year in Saskatchewan approximately 32,400 boilers and pressure vessels are in operation, 3,100 elevators carry passengers and freight, and 240 amusement park rides thrill fairgoers.

During the previous year, for an example, licensing inspections inspected nearly 5,000 boilers, around 4,000 pressure vessels, more than 2,000 elevators, almost 300 amusement park rides, and around 250 refrigeration plants. If only one of these devices should fail or if a boiler or pressure vessel explodes, property and lives are put in jeopardy. We need to ensure this does not happen, which is why ensuring this equipment meets rigorous safety standards is vital.

Currently periodic inspection of in-service pressure equipment, elevators, and amusement rides are prescribed under *The Boiler and Pressure Vessel Act, 1999*, *The Passenger and Freight Elevator Act*, and *The Amusement Ride Safety Act*.

Boilers and pressure vessels are inspected at frequencies of one-, two-, or five-year intervals depending on the assessed degree of potential risk. Inspections ensure that installed safety devices continue to provide for safe operation and to ensure that the structural components are sound.

In addition to inspections of installed devices, inspections are conducted on new equipment under construction at fabrication shops and during installation at site locations. Owners of

pressure equipment who follow an approved quality management program can now perform their own periodic inspections of their equipment.

Elevators are inspected at frequencies of 12 to 18 months depending on their assigned risk. The risk is based on maintenance by licensed contractors. The types of elevating devices in operation in Saskatchewan include passenger elevators, freight elevators, dumb waiters, lifts for disabled persons, escalators, man lifts, and chairlift, T-bars, and rope tows.

Amusement rides are inspected each year or when they're being set up at fairs or exhibitions across the province. The amusement ride sector operation in Saskatchewan is predominantly itinerant, with out-of-province equipment operating on several national carnival show circuits. Each amusement ride is inspected at the first set-up location in the province to ensure that equipment safety and operational standards are met.

If any of this equipment that I spoke of — boilers, pressure vessels, elevators, or amusement park rides — is found deficient after an inspection, a corrections order is given to the owner or operator.

Why does this government require that this Bill be passed into legislation during this session? There are two vital reasons, Mr. Speaker. We know there is a backlog, a backlog of inspections for boilers, pressure vessels, amusement rides, and elevators. And industry has raised concerns that the timeliness issue could lead to a significant public safety issue. The sooner we are able to move forward with this legislation, the sooner we can make progress on our backlog.

Second, because this function that currently falls under CPSP's [Corrections, Public Safety and Policing] mandate will move to an authority that collects its operating revenues from its stakeholders, it is necessary to align revenues with expenditures appropriately for the business year. Ultimately, funding out of the General Revenue Fund will only be provided until July the 1st, 2010.

Over the course of the summer, ministry officials consulted with industry representatives on their issues with how licensing and inspection services are now structured and on how they could suggest improvements to timeliness and quality control. We were unequivocally told that a stand-alone organization was the course to take. Government is just not structured in a way that is sufficiently flexible and responsive to industry's needs. This is particularly the case when we look at the issue of recruitment and retention of technical experts. In our deliberations over creating an authority, we also took into account that similar organizations undertaking similar work have been operating successfully in British Columbia, Alberta, and Ontario.

To that end, Mr. Speaker, Bill 136 proposes the authority be structured as a delegated, administrative organization of government. Under such a model, the authority may charge fees and retain revenues, but its policy, legislation, and regulations will be retained by government. And, Mr. Speaker, I wish to

repeat that — that its policy, legislation, and regulations will be retained by government, specifically Corrections, Public Safety and Policing, to ensure continued maintenance of public safety and accountability.

Through the proposed legislation, the authority will have the power to set its own fees. These fees are applied to owners and users of regulated equipment and apply to those who directly benefit from the use of the equipment and technologies regulated. Additionally the legislative proposal empowers the authority to enter into agreements, set and charge the amount of fees for its services, purchase property, accept monies appropriated by the legislature, and establish bylaws. The authority will also be able to provide services to neighbouring provinces if that is deemed necessary.

Mr. Speaker, a negotiated safety standard agreement is meant to govern the relationship between CPSP and the authority. The legislative proposal prescribes what must be included in the agreement and includes such requirements as the expected safety outcomes, performance objectives of the authority, requirements for and access to records, requirements for insurance, and provisions for settlement of disputes.

In addition the proposed technical safety authority legislation sets out the governance structure for the organization. It allows for governance by a board of between five and 10 members. Two are proposed to be appointed by the Lieutenant Governor in Council and the remainder is proposed to be appointed by the board. The Bill allows for the board to establish policies and procedures related to how it will conduct its affairs and carry out its responsibilities. It also establishes parameters for creating a code of conduct, setting up an audit committee to oversee the authority's finances, and directs the board to prepare and make public availability a business plan.

It is proposed that the business plan be presented to the CPSP minister and will be tabled in the legislature. Proposed legislation will require the board to have bylaws that set out the requirements regarding a nomination process for making board appointments, establishing reimbursement and remuneration for board members, and establishing the fees to be charged for services.

The board will be required to publish these bylaws so that they are publicly available to ensure transparency and accountability. They will also be provided to the CPSP minister. Mr. Speaker, I should also point out that there will be consequential amendments to the associated safety statutes — *The Boiler and Pressure Vessel Act, 1999*, *The Amusement Ride Safety Act* and *The Passenger and Freight Elevator Act* — which address their delegation to authority.

Finally, Mr. Speaker, I am pleased to note that the employees of CPSP's licensing and inspections branch will be transferred to the new authority, meaning there will be no job loss as a result of this transfer. And I wish to repeat that for all to hear. There will be no job loss as a result of this transfer.

I'm confident the legislative proposal that I have before you today represents the fulfillment of multiple commitments by this government. It is the assurance that public safety risks are acknowledged, monitored, and reduced. It is the assurance that

industry will receive more effective and timelier service. And it is the assurance that industry continues to be a driving force in the growth of our province. Therefore, Mr. Speaker, I move that *The Technical Safety Authority of Saskatchewan Act, 2010* be read a second time. Thank you.

**The Speaker:** — It has been moved by the Minister Responsible for Corrections, Public Safety and Policing that Bill No. 136, *The Technical Safety Authority of Saskatchewan Act* be now read a second time. Is it the pleasure of the Assembly to adopt the motion? I recognize the member from Moose Jaw Wakamow.

**Ms. Higgins:** — Thank you very much, Mr. Speaker, and it's a pleasure to have an opportunity this morning to rise and add my comments to the tabling of the technical safety authority of Saskatchewan respecting the administration of safety statutes.

Mr. Speaker, I listened with interest to the minister's comments. And I think the first thing that jumped out at me when we talk about a delegated administrative organization, the Technical Safety Authority of Saskatchewan, that will have the ability to administer the safety programs for boilers, pressure vessels, amusement rides, and elevators, the minister made the comment that he doesn't think that the citizens of the province pay attention to, or even know that these are actually even carried out across the province, or probably not aware of the type of schedule that's maintained.

But I have to say, Mr. Speaker, I was on an elevator the other day, and it still carried the inspection certificate with the signature of the member from P.A. [Prince Albert] on it. And I got a little nervous, Mr. Speaker, because I was a little concerned that he had done the inspection, Mr. Speaker, and signed it off. Being he hasn't been a minister for a while either so, Mr. Speaker, we might have to ask some questions about how often inspections are done.

But seriously, Mr. Speaker, there are a number of concerns. And while the legislation lays out how the authority will be structured, what the purpose of the authority is, Mr. Speaker, the member also pointed to a number of more specific issues that do raise a number of questions: that the authority will have the ability to do work outside of Saskatchewan; they will establish the rate of remuneration and the rate of reimbursement for expenses for the board members. It's kind of traditional how these arm's-length boards are laid out and what the transition will be over the next number of months.

But, Mr. Speaker, what it gets down to is, we really have to ask why, why there's a feel that public safety should be the responsibility of an organization that's arm's length from the Government of Saskatchewan. And is that not a role of the Government of Saskatchewan? One of the main roles of the Government of Saskatchewan is to make sure that public safety is maintained and to be able to efficiently provide the services that are needed across the province so that citizens can not worry about, they don't have to worry about whether inspections are being done because they know that the Government of Saskatchewan is being diligent in their obligations and their responsibilities.

So, Mr. Speaker, while we may not always know the amount of

inspections that are done, people of Saskatchewan do feel secure knowing that the government is responsible and that the government is following through on their obligations and making sure that these inspections are done on a regular basis.

[08:15]

Mr. Speaker, I have to comment on . . . The minister made the point that through this delegated administrative organization, that it really gets down to a public safety issue. Because he stated the fact that if you get behind on inspections to pressure vessels, how long do you let them go? Well I guess that's a question, Mr. Speaker. How long has the minister let them go? And has he been diligent in carrying out his responsibilities with the authority that he has as a minister? And why, Mr. Speaker, would an arm's-length organization be able to deal with the problems any better than what the minister has not been able to deal with them?

And I don't know whether it's maintaining officials that have the ability to carry out the inspections. Mr. Speaker, there are many tools at the use of the government where they can — whether it is hiring more staff or more inspectors — be able to keep up with the inspections and get rid of the backlog that obviously the minister . . . It sounds like there is a backlog on the inspection side.

Mr. Speaker, there are many tools, market adjustments for areas where employees are needed but difficult to recruit and retain by the government. So I wonder how much effort the government has actually put into the whole issue of building up the workforce of inspectors and being able to do away with the backlog. Is this a problem that the government has created? And is it one that they've actually put some effort into fixing?

So, Mr. Speaker, there's a number of questions that we will need to ask. And the minister also commented that they needed an arm's-length board and to move inspections out to the private sector, because government is not flexible enough and not able to meet the needs of industry.

But I would say to the minister, please go talk to the member responsible for Energy because the oil and gas sector, the Government of Saskatchewan, whether it's land leases and the various requirements that are needed for development in that sector, the department and the unit within the Government of Saskatchewan has a well-earned reputation for being very flexible, very responsive to the needs of the industry, and being much quicker at providing what the industry needs over some of our neighbours, Alberta for example.

Mr. Speaker, if you have discussions with people in the industry, they will say that it's much better to deal with the Government of Saskatchewan and the department here because they are very receptive, they are very flexible, and they're very receptive to the needs of the industry.

So maybe, Mr. Speaker, the minister just hasn't looked far enough and looked for some solutions. He's just gone with an ideology that feels that the private sector is more of . . . will be able to do a better job. I would say, Mr. Speaker, there are many questions that the government is shucking some its responsibility off to the private sector and that he maybe should

have done a little more work and had a look at what other options are open to him.

And, Mr. Speaker, it may take a number of issues off the minister's plate, but again I would say, maybe step back, have a look at what options are open to you, what other solutions are in place before you contract out and privatize the inspection service that the people of Saskatchewan rely on.

And, Mr. Speaker, I do have to say one of the things when we first had some discussions and we heard that this Bill was coming forward, seeing it tabled in the House, one of the first things that we thought of and that came to mind was when the federal government was moving meat inspections, CFIA [Canadian Food Inspection Agency] was moving to a private system of self-regulating within the industry. The Bill was tabled in parliament in Ottawa. It was beginning to move through. These discussions had been out there and concerns had been out there by many citizens, and we ended up with a — I guess by chance, Mr. Speaker, it happening at that time — a breakout of listeriosis. The Bill was quickly pulled off of the table. We haven't heard anything about it since being put forward again by the government.

So, Mr. Speaker, this is clearly a case where the responsibility for public safety rests with the Government of Saskatchewan, and rests more specifically with the minister. But, Mr. Speaker, inspections, and I would say the citizens of this province have that expectation that the government is responsible for these areas. It's their jurisdiction and it is a responsibility of theirs.

So to move it to an arm's-length organization and remove that responsibility because in the legislation, Mr. Speaker, it quite often refers to it not being a responsibility of the Crown, or the Crown not being liable, and clearly lays out that they have no responsibility. They maintain the legislation, maintain the statutes, but have no responsibility for them being carried out.

So, Mr. Speaker, the listeriosis affair that happened federally caused a great deal of concern, caused a great deal of effects to the health of many people across the province, was clearly a message to the government, the federal government, that they needed to step up and take responsibility for their obligations and not move it out to the private sector.

So, Mr. Speaker, while there's a number of questions, there's a number of my colleagues that would also be concerned with this piece of legislation and also for the people that are involved. And I would say we need to look at having discussions with some of the people involved to get a more first-hand understanding of what this will mean. So at this time, Mr. Speaker, I would adjourn debate on the Technical Safety Authority of Saskatchewan.

**The Speaker:** — The member from Moose Jaw Wakamow has moved adjournment of debate on Bill No. 136.

Is it the pleasure of the Assembly to adopt the motion?

**Some Hon. Members:** — Agreed.

**The Speaker:** — Carried.

**Bill No. 137 — *The Safer Communities and Neighbourhoods Amendment Act, 2010***

**The Speaker:** — I recognize the Minister Responsible for Corrections, Public Safety and Policing.

**Hon. Mr. Huyghebaert:** — Thank you, Mr. Speaker. Mr. Speaker at the end of my remarks today, I will move second reading of Bill No. 137, *The Safer Communities and Neighbourhoods Amendment Act, 2010*.

Mr. Speaker, Bill 137 proposes amendments to the existing safer communities and neighbourhoods Act to strengthen the legislation's provisions concerning wearing and/or displaying gang colours in permanent establishments.

Mr. Speaker, the members are no doubt aware of the situation involving charges against two motorcycle clubs for wearing gang colours in a permitted establishment. This circumstance is at the heart of the reason for the Bill proposing amendments to the legislation. And I will talk about those in more detail in a minute.

Mr. Speaker, first I'd like to provide some background to *The Safer Communities and Neighbourhoods Act* and how we got where we are today. The Act was put into force in 2004 to provide a legal structure for holding building and property owners accountable for specific illegal activities that regularly take place on or near their properties.

These activities include producing, selling, or using illegal drugs; prostitution; gang and organized crime activities; child sexual abuse; solvent abuse; or the unlawful sale and consumption of alcohol. Residential and commercial properties that are known to be housing these kinds of activities are targeted. Under the safer communities and neighbourhoods, or SCAN legislation, these properties can be shut down by the province. The Act empowers the SCAN director, who's an official of the Ministry of Corrections, Public Safety and Policing, to apply to the court for a community safety order to shut down the property and have tenants evicted.

Mr. Speaker, I should take a minute to point out that the SCAN program has been well used by Saskatchewan citizens looking to rid their neighbourhoods of criminal activities. From January 2005 when SCAN started until February of this year, it has received 2,732 complaints. Most of these, 2,079, were reported as drugs, 184 as prostitution, 167 as gang organized crime, and 93 as grow ops. The remaining 203 complaints were within other specified activities such as alcohol and sniff houses, and six cases fell under *The Seizure of Criminal Property Act*. Related to enforcement action, SCAN has been involved in 393 evictions and 16 successful community safety order applications.

Our current intelligence tells us that there are around 21 identified street gangs operating in Saskatchewan. Each has its own set of garb or insignias, known as colours, to identify members. We also know that wearing colours in the proximity of another gang often encourages violent encounters between the two. These kinds of situations present safety risks to ordinary, law-abiding citizens and just won't be tolerated.

Let me go back to my chronology of the evolution of the Act with the notion of gang colours in mind. On April the 19th, 2007, *The Summary Offences Procedure Act* was amended to allow for issuing a summary offence ticket information for an offence under section 60.1(2) of the SCAN Act. This section makes it an offence to wear gang colours in any permitted premises.

As I mentioned earlier, Mr. Speaker, after the amendment came into effect, members of the Hells Angels Regina and Saskatoon chapters and the Saskatoon chapter of the Freewheelers were charged with separate offences under this section. The charge against the Regina Hells Angel member was subsequently stayed. The charges against the Saskatoon Hells Angel and the Freewheelers member that were set for trial in September 2008 were adjourned pending constitutional arguments by the Crown and defence representatives.

As of October 31st, 2008, five charges had been laid under section 60.1(2) of the SCAN Act, all related to members of the motorcycle gang. Again all charges were adjourned until June 2009 based on constitutional arguments. These arguments were heard in June 2009, and on December 17th, 2009, Judge Lavoie released his ruling against the Crown on the constitutional challenge. Mr. Speaker, according to Judge Lavoie, the Hells Angel's right to freedom of expression was affected negatively, and this concern outweighed any public safety concerns put forward by the Crown. We are confident we can address these issues through amendments to the Act.

We were made aware that the legislation as it exists today probably wouldn't withstand a constitutional challenge because it is too broad. Thus, Mr. Speaker, the amendments to 60.1 included in Bill 137 may appear simple but they are certainly far-reaching. Essentially they expand on the definition of gang colours and narrowing the scope of the meaning of permitted premises. We also have better information on gangs and their symbols and paraphernalia, so for an example, the legislation adds tattoos in description of gang colours.

Mr. Speaker, it was also determined that the existing legislation called for penalties that were too harsh, possibly hindering prosecution for the offence. So the amendments propose to lower the amount of fines and to remove the option of a prison sentence for the first offence.

Mr. Speaker, I can tell you that is important to this government to send a clear message to organized crime and gang members that we will not tolerate their activities in this province. That is why, under the legislative amendments, the prison sentence for a second offence still stands. However, on the advice of Justice, the fine has been lowered for the second offence as it has for the first.

Finally, Mr. Speaker, the Bill proposes to detail the names of groups considered as gangs in the regulations accompanying the Act. As with the other amendments I mentioned, this will help clarify the definition of a gang and gang colours for the purposes of enforcing the legislation. The amendments will also narrow down the type of licensed premises to which this offence applies, to address the court's concern that the reach of this section was too broad.

Mr. Speaker, Bill 137's proposed amendments to *The Safer Communities and Neighbourhoods Act* will help ensure the clarity required to withstand a constitutional challenge. The intent is to ensure that any group intent on unlawful activity cannot advertise their proclivities in permitted premises. This kind of activity disrupts the ability of law-abiding patrons to enjoy their social occasion and creates a risk to public safety. The SCAN Act is in place to ensure our communities and neighbourhoods are places that are safe for everyone. A small handful of people intent on a criminal lifestyle should not take our peace of mind away from us.

[08:30]

Mr. Speaker, this government will continue to use measures like the Act to deter criminal activity in this province. We have committed to the safety and security of Saskatchewan citizens, and we are determined to keep that promise. Therefore, Mr. Speaker, I move *The Safer Communities and Neighbourhoods Amendment Act, 2010* be read a second time. Thank you.

**The Speaker:** — The Minister Responsible for Corrections, Public Safety and Policing has moved that Bill No. 137, *The Safer Communities and Neighbourhoods Amendment Act, 2010* be now read the second time. Is the Assembly ready for the question? I recognize the member from Saskatoon Meewasin.

**Mr. Quennell:** — Thank you, Mr. Speaker. It is indeed a pleasure — I know I often say that; members often say that — but indeed a pleasure to rise to speak on this Bill today. Listening to the member from Wood River, the Minister for Corrections, Public Safety and Policing even refer to the Charter of Rights and constitutional questions, Mr. Speaker, alone was worth the price of admission.

But secondly . . . And I commend the minister for his history of this legislation. In fact legislation of this type, an Act of this type was first implemented in New Democratic Party Manitoba, Mr. Speaker, without a lot of fanfare, I think. But it was a successful program and when I became minister of Justice, within weeks I had had some conversations with the minister of Justice in Manitoba, and I had met with the officials responsible for implementing and conducting the SCAN program in that province.

And very soon in Saskatchewan we introduced legislation, passed legislation, and it has had the effect that the minister described in making many, many neighbourhoods safe. It did that almost immediately. It has done that over the years. I am pleased to hear the minister's report that the success of the program is ongoing. And as a matter of fact, Saskatchewan, and I personally, became quite a proselytizer for safer communities and neighbourhoods programs.

And I believe that similar legislation and similar programs have been adopted across the country now, following arguably Manitoba's lead, but I believe Saskatchewan's lead because Saskatchewan aggressively adopted the program. And at numerous federal-provincial-territorial meetings I promoted the program as an appropriate provincial response to issues of crime, particularly organized crime, particularly crime around drug sales and the improper sale of sex in brothels and particularly in residential neighbourhoods. And the program I

think has shown its effect across the province and its effect across the country where adopted.

At the beginning, Mr. Speaker, when the program was begun, we started in the cities. And a new program takes new money. So it was always an argument of course, Mr. Speaker, to get new spending in any department, but the government was committed to the program. But I remember attending conferences, SUMA [Saskatchewan Urban Municipalities Association] and SARM [Saskatchewan Association of Rural Municipalities], Mr. Speaker, and having municipal leaders ask, when can we provide more inspectors? When can we have a greater effect in their communities? When can we expand this program across the province? And we did as quickly as we could, Mr. Speaker, and I think the effects have been significant.

And every year that I was minister of Justice, the crime rate in the province of Saskatchewan dropped, and I believe it has continued to drop every year since, Mr. Speaker. And I can't prove it and the current minister responsible for the legislation can't prove it, but I believe that this legislation is a significant contribution to that trend within our province, Mr. Speaker, because there weren't any other trends, demographic or otherwise, that suggested that might be the case. But legislation like this, brought in by the previous government, the NDP [New Democratic Party] government, and supported by this government, I think contributed to that encouraging trend within the province which of course still has to be encouraged, Mr. Speaker.

Now this legislation, this Bill deals with later amendments to the safer communities and neighbourhoods legislation and specifically the issue of, as the minister put it, gang colours in licensed premises. And part of the reason for this legislation is the correlation between alcohol consumption and crimes of violence, Mr. Speaker, which I don't think will surprise anybody. That's part of the reason. So you are more likely to have a crime of violence where alcohol is being consumed and being abused than where it is not, Mr. Speaker. That's, I think, an empirically proven fact.

And alcohol is consumed in permitted premises. It's consumed in other places, Mr. Speaker, but there was no question in the mind of the government of which I was a member, of the NDP government of which I was a member, that the province had the jurisdiction to make this type of legislation apply to licensed premises, Mr. Speaker, where we might not have had the jurisdiction to make it apply in other places. And I believe that that was, that point was upheld by Judge Lavoie in his judgment which the minister referred to.

Secondly, Mr. Speaker, it's one thing for an organization, whether it's a criminal organization or not, to dominate their own private clubhouse and to wear their own colours and to feel comfortable amongst themselves and perhaps for members of the public, who are not invited to private clubhouses, to feel comfortable, Mr. Speaker. It's another thing for an organization, particularly, arguably, a criminal organization or a gang, to take over a public facility to which the public is entitled to come and which the public needs to feel comfortable in. And the concern about public intimidation, as subjective as it is — and I think Judge Lavoie struggled with that to a certain

extent — as subjective as that is, is an important concern.

The public should be able to go to any licensed premises they want to go to in the province of Saskatchewan and not feel vaguely under threat because it looks like it is the clubhouse or partly the clubhouse of a gang, Mr. Speaker. And it is difficult to give evidence into court of that type of intimidation or that type of concern or that type of effect on a business of a licensed premises, Mr. Speaker. But I think it is easy to understand that such intimidation, such concerns might exist, Mr. Speaker, and they should not be easily dismissed.

Now this circumstance where the legislature passed legislation, *The Safer Communities and Neighbourhoods Amendment Act* under the NDP government, which arguably was somewhat broad and expansive and a court has decided that it was too broad and perhaps too vague and the legislature is returning to protect its intent of its legislation by narrowing — I trust, I hope no more than necessary — the scope of the legislation, this is a rare circumstance of what probably should take place more in this country and what is called a dialogue between legislatures and the courts.

The legislature, when the original legislation was passed, was not timid, Mr. Speaker. The legislature had all the concerns that the minister expressed today about the intolerance of organized criminal activity in the province of Saskatchewan, and the legislature wanted to use all powers available to it without being sure of what the extent of its powers might be, but not show unnecessary restraint pre a judgment of the court as to what those powers might be.

Now a court, Provincial Court, has said that these powers should be narrowed and the scope of the legislation should be narrowed, although the court recognizes the intent and its value, Mr. Speaker. And the legislature is responding in what I called today a dialogue.

My first reaction upon hearing that Provincial Court had read down, overruled the legislation of this legislature in respect to gang colours in licensed premises was that the government had responded badly. I believed that — my first reaction was, Mr. Speaker — that the government should appeal this judgment of Judge Lavoie and see if appellate courts had the same restrictive view as to what the legislature could do in these circumstances.

Upon consideration I believe the government is moving in the right direction. I have read Judge Lavoie's judgment which I hadn't did when I first reacted. I'm not entirely persuaded. I believe he could have upheld the legislation in its entirety. I think he overemphasized the concern about deleterious effects of not allowing members of organizations to wear what are known as gang colours, and I think he underestimated the benefits of avoiding the intimidation effect in licensed premises that I previously discussed.

Nonetheless Judge Lavoie has done his job. He has interpreted legislation in light of the constitution of the country. And certainly it's arguable, it is certainly understandable for the government to believe that the judgment — well written, well reasoned even if we as legislators don't necessarily agree with it — would be upheld on appeal, and that the wisest course of action is to do our very best as a legislature to save the intent,

purpose, the overall effect of the Act to the extent that we can while in a dialogue with the court addressing the concerns that have been raised in respect to freedom of expression.

I won't go through the judgment in any kind of detail. I think that might be more appropriate in committee when we have access to the constitutional lawyers employed by the government and perhaps even one or two of the Crown counsel that argued in defence of the Bill at the Provincial Court. And we will, I think, permit it to go to committee quickly for a couple of reasons.

First of all, I think that's the best place to have that discussion. And secondly, I and my colleagues, as the originators of the original legislation, believe in its importance, do not want there to be a vacuum in this area, and wish to proceed as quickly as possible, and, as a matter of fact, wish the government had brought forward their Bill earlier than they have. But here it is, and we have no desire to impede it any further.

I will note one small matter for the members of Executive Council in the room, and that is — and this is not too uncommon — Judge Lavoie's quotation from my second reading speech as to the intent of the legislature in enacting the original legislation, *The Safer Communities and Neighbourhoods Amendment Act, 2005*. It is not unusual in circumstances like this — particularly when constitutional questions arise and there is some potential concern about the intent of the legislature because counsel for one side or the other is making the argument that the legislation is vague — for the courts to go to the second reading speech of the minister.

And on occasion, members of the government I know will go a little off script on their second reading speeches. And I've never seen an opposition speech in debate of a Bill be used for that purpose, but I have seen these speeches of ministers — and in this case, me, Mr. Speaker — used for that purpose in court. And it's just a little warning to the ministers opposite that they may not want to go off script on their second reading speeches because what they say will be taken to be legislative intent if the Bill is actually passed and enacted.

[08:45]

So, Mr. Speaker, I think the government and the opposition is on common ground. We have an initiative of the former government that has shown its value that the current government wishes to continue with, that may need to be modified. I hope that the courts will appreciate how strongly this legislature feels on these issues, Mr. Speaker, and that we strive to strike a balance with the Charter of Rights and Freedoms but that we want to accomplish the ends that I spoke to in my second reading speech on the original legislation and that the minister spoke to in his second reading speech today, Mr. Speaker.

And for the purposes of accomplishing the will of, I think the unanimous will of the legislature, Mr. Speaker, I will close my remarks and we will allow this matter to go to committee and hopefully to see the Act passed and proclaimed in the immediate future.

**The Speaker:** — Is the Assembly ready for the question?



**Some Hon. Members:** — Question.

**The Speaker:** — The question before the Assembly is a motion put forward by the Minister Responsible for Corrections, Public Safety and Policing that Bill No. 137, *The Safer Communities and Neighbourhoods Amendment Act, 2010* be now read the second time. Is it the pleasure of the Assembly to adopt the motion?

**Some Hon. Members:** — Agreed.

**The Speaker:** — Carried.

**Law Clerk and Parliamentary Counsel:** — Second reading of this Bill.

**The Speaker:** — To which committee shall this Bill stand referred? I recognize the Deputy Government House Leader.

**Hon. Mr. Harrison:** — I designate that Bill No. 137, *The Safer Communities and Neighbourhoods Amendment Act, 2010* be referred to the Standing Committee on Intergovernmental Affairs and Justice.

**The Speaker:** — The Bill stands referred to the committee responsible for intergovernmental affairs and justice.

#### **Bill No. 143 — *The Tobacco Tax Amendment Act, 2010***

**The Speaker:** — I recognize the Minister of Finance.

**Hon. Mr. Gantfoer:** — Thank you, Mr. Speaker. I rise today to move second reading of *The Tobacco Tax Amendment Act, 2010*. Mr. Speaker, the amendments being proposed by *The Tobacco Tax Amendment Act, 2010* can be categorized under three main areas.

First, the amendments increase the tobacco tax rates effective March 25th, 2010 as announced in the March 24th, 2010 budget, and modify the tax calculation for cigars. Second, the amendments establish the First Nations tobacco tax refund program in legislation. This includes defining new terms, providing new tobacco markings, stronger enforcement measures, additional offences and penalties, and regulation-making provisions for weekly tax-free purchase limits, tobacco markings, and reporting requirements. And thirdly the amendments introduce new provisions that could be described as administrative and housekeeping in nature.

These combined changes, Mr. Speaker, are expected to generate about \$35.7 million in additional tobacco tax revenue in the current fiscal year. A more detailed description of each of these three areas, Mr. Speaker, is as follows.

First, increase tobacco tax rates. The tax rate on cigarettes and grams of tobacco increases by 2.7 cents per cigarette and per gram to 21 cents per cigarette, per gram effective March 25, 2010. The tax rates on cigars increases from 95 per cent of the taxable price to 100 per cent of the taxable price. The calculation of the taxable price of a cigar is being modified to address a competitive issue raised by Canadian cigar manufacturers and to make it consistent with the tax calculation methods implemented by other provinces in recent years.

Second, First Nation tobacco tax refund program. Mr. Speaker, new definitions are added in the legislation to establish the refund program for tobacco purchase tax-free on-reserve by status Indians. The definitions include black stock, which is tobacco marketed in accordance with the federal *Excise Act 2001* and sold tax-free to status Indians on the reserve by on-reserve retailers and by duty-free shops to international travellers. Exempt consumer is a person registered as a status Indian under the *Indian Act*, Indian and Indian band as defined under the *Indian Act*.

Section 11 of the Act, Mr. Speaker, is revised to address the markings of tobacco and the rules, prohibitions, and offences around selling, storing, transporting, and possessing black stock tobacco. Also provision is made to establish in regulations the one-carton limit of tax-free black stock tobacco with provision for over-limit purchases for ceremonial and cultural uses for status Indian purchases made on-reserve.

Mr. Speaker, new sections 18.1 to 18.6 are added to establish administrative penalty provisions that allow for giving notice with 30 days to appeal a penalty assessment of triple the amount of tax, in addition to the tax owing, for contravening the Act in certain circumstances. Also if a person fails to submit a return required by the Act, a penalty in the amount of \$25 for each day of default to a maximum of \$1,000 may be assessed.

Mr. Speaker, section 25 of the Act is amended to provide enforcement officers with the authority to seize unmarked tobacco, including black stock tobacco, in various situations and circumstances where the Act is contravened.

Section 34 of the Act, Mr. Speaker, is amended to provide several new regulation-making provisions for the black stock tobacco marking program, purchase and possession limits for tax-free black stock tobacco, registration of retailers, exempt consumers, over-limit purchases, i.e., for ceremonial and cultural purposes, and reporting requirements for licensed importers, licensed manufacturers, and exempt sale retailers.

The third area of administrative and housekeeping provisions. Finally, Mr. Speaker, certain administrative and housekeeping changes are being made, including: provision allowing for the possibility of a tobacco manufacturer starting up in Saskatchewan; provision to enter into an agreement with the federal government to collect the tax on tobacco shipped from out of the country through the postal courier system; prohibiting refunds from being assigned or transferred and allowing for set-offs against refunds where taxes collected by the revenue division are owing; and adding a provision stating that where there is a conflict between this Act and any provision of any agreement, for example, First Nations tobacco tax agreements, this Act prevails.

In summary, Mr. Speaker, the tobacco tax rate increases come into force on the date of assent but are retroactive and deemed to have been in force on and from March 25th, 2010. The changes to the First Nations refund program along with the administrative and housekeeping provisions come into force when the Act is proclaimed. With that, Mr. Speaker, I move second reading of *The Tobacco Tax Amendment Act, 2010*.

**The Speaker:** — The Minister of Finance has moved second

reading of Bill No. 143, *The Tobacco Tax Amendment Act, 2010*. Is the Assembly ready for the question? I recognize the member from Regina Dewdney.

**Mr. Yates:** — Thank you very much, Mr. Speaker. I'm extremely pleased this morning to get up and speak on *The Tobacco Tax Amendment Act, 2010*. Mr. Speaker, for some years members of this Assembly have been working with the Canadian cancer agency and many other stakeholders to limit tobacco utilization in our province, and through that try to improve the general health of people of the province of Saskatchewan.

And, Mr. Speaker, we have worked collectively on tobacco control legislation, and we have continued to work on what we would see as both the positive steps to reduce the utilization of tobacco, but also through detrimental steps to cost increases and other factors to limit the utilization of tobacco from the point of view of it being more costly, Mr. Speaker.

Mr. Speaker, we see this as another step in trying to improve the general health of the people of the province of Saskatchewan. We all benefit if we have healthier communities and if we reduce the utilization of tobacco and smoke and second-hand smoke in our homes, in our communities, and in public places, Mr. Speaker.

There are concerns as there always are with any piece of legislation, Mr. Speaker. There are concerns about the level of consultation, who was consulted, what considerations from those consultations were taken in in the drafting of the legislation, Mr. Speaker. Were, as an example, the cancer agencies consulted? Were other stakeholders consulted that have a vested interest in seeing the reduction of tobacco utilization, Mr. Speaker?

As you and other members of this Assembly will know, I believe it was about five years ago we had an all-party committee that undertook a detailed examination of the use of tobacco in our communities, particularly focusing on how to reduce tobacco and what impact . . . What things we could do to impact the utilization of tobacco and use of tobacco in our communities, and particularly among young people, was a major concern. Mr. Speaker, so were those agencies consulted? And is this another step in trying to once again limit the utilization or the use of tobacco in our communities and among people?

Mr. Speaker, this particular legislation also impacts groups in our society from a health perspective as well. Was the health stakeholders consulted, Mr. Speaker? Because we're all well aware that as tobacco use decreases, Mr. Speaker, there are generally corresponding decreases in health utilization as a result of things like lung cancer and other forms of cancer that come about as a result of smoking as well, Mr. Speaker.

So it isn't clear to us what consultations were done, Mr. Speaker. Were First Nations consulted? Were health stakeholders consulted, Mr. Speaker? And of course were third party agencies like the Cancer Society consulted, Mr. Speaker?

Those are all questions that we will have in some detail, Mr. Speaker, as we move through this legislation. This being a

budget Bill brought forward by the Minister of Finance, it will require a little more detailed questioning in committee, Mr. Speaker. We will want to undertake in some detail the consultation process that was undertaken, Mr. Speaker. Who was consulted? Why weren't people consulted, Mr. Speaker? And what legal opinions may have been rendered on various sides of the issues that are undertaken in this particular legislation, Mr. Speaker?

So, Mr. Speaker, because of the detailed nature of the questions we're going to have to have in committee, Mr. Speaker, I would undertake at this time to move this Bill to committee.

**The Speaker:** — Is the Assembly ready for the question?

**Some Hon. Members:** — Question.

**The Speaker:** — The question before the Assembly is the question presented by the Minister of Finance that Bill No. 143, *The Tobacco Tax Amendment Act, 2010* be now read a second time. Is it the pleasure of the Assembly to adopt the motion?

**Some Hon. Members:** — Agreed.

**The Speaker:** — Carried.

**Law Clerk and Parliamentary Counsel:** — Second reading of this Bill.

**The Speaker:** — To which committee shall this Bill stand referred? I recognize the Deputy Government House Leader.

**Hon. Mr. Harrison:** — I designate that Bill No. 143, *The Tobacco Tax Amendment Act, 2010* be referred to the Standing Committee on Crown and Central Agencies.

**The Speaker:** — The Bill stands referred to the Standing Committee on Crown and Central Agencies.

## ADJOURNED DEBATES

### SECOND READINGS

#### Bill No. 121

[The Assembly resumed the adjourned debate on the proposed motion by the Hon. Ms. Heppner that **Bill No. 121 — *The Environmental Management and Protection Act, 2009*** be now read a second time.]

**The Speaker:** — I recognize the member from Saskatoon Centre.

**Mr. Forbes:** — Thank you very much, Mr. Speaker. I'm glad to enter into the debate today on Bill 121, *An Act respecting the Management and Protection of the Environment, repealing The Clean Air Act, The Environmental Management and Protection Act, 2002, The Litter Control Act and The State of the Environment Report Act and making consequential amendments to certain Acts.*

This is quite a thorough piece of legislation. It marks a real sea change in how the province of Saskatchewan will now approach

environmental management and assessment. And of course we have some concerns and some questions, and of course we'll raise those during questions in committee.

But I do have to say right off the bat that I am deeply, deeply concerned about this because this is something that, while I know the minister will say there's been consultations, there's been narrow groups of consultations. The public at large has not been engaged in this process. It was not something that was out there in terms of the election.

It's something that came about, and of course we see many Acts that are tied together, tied together as this government unfortunately makes its mark on the environmental landscape. And it's not one that will be a proud mark, not one that they will be able to look forward in the decades to come and say, that was a real turning point back in 2010 when we changed how we did business in Saskatchewan.

And in fact I think the key word is business. We agree, we agree with the interface of the economy and the environment, and in fact you cannot separate the two. And in fact if you take a look at what the economy really is, it's about how we meet our needs. And essentially how we meet our needs dictates how we live in our world. And clearly we need to make sure that when we live in our world, that is in a sustainable fashion, in fact that we leave it better than how we found it.

[09:00]

This sea change that we see happening now really is one that talks about, that really focuses on, on the marketplace. And in fact in our economy, many people have remarked about how it is in fact changing from how we meet our needs to how we meet our wants, how we meet our desires. And in this world, especially in the Western world, our wants and our desires are putting a huge pressure on our environment. It's one that we can see in terms of climate change, in terms of degradation, in terms of the biodiversity, and it's one that we really have to take seriously.

And so we have some deep, deep concerns about the work that's going on because it is so deeply based on the market. And we see attempts by this government really, I think, the term that's being used often is greenwash, that they're not deeply committed to what the main mandate of the ministry should be, and that is clean air, clean land, clean water, a rich biodiversity in our province, in our world. And we are stewards of some fantastic, wonderful landscapes and water. Of course our province is home to over 100,000 lakes right across this province, and it's an important thing that we do this right.

And we've seen over the last couple of days some debates on other Bills — I'm thinking of *The Wildlife Habitat Protection Act* — that have come to light that we're moving so fast, but we don't really have an overarching view of this saved environment, other than that this government views it as a way to make sure the marketplace thrives. We have no problem with a thriving marketplace, but it cannot be at the expense of the environment. In fact we believe, we fully believe that they are not mutually exclusive. And sometimes I think that this government thinks that they are and they will do whatever it takes to make sure some in the market have their way. I want to

underline "some" because we know that there are many, many people within the market who see that the future of the market depends on the future of our environment.

And we think this government has no credibility when it comes to environmental matters. We see this, as I said, with just recently in terms of wildlife habitat, the things that they're talking about. The comments were made, many people heard on the radio the comments that were made by Colin Maxwell, a former minister of wildlife resources here in Saskatchewan, the good work that was actually done, some of the good work that was done in the '80s in that area. It's amazing that there was a lot of stuff that we have a lot of problems with, but here was one piece of legislation we can say, this is good work. And Mr. Maxwell's comments this morning talking about how you cannot have thriving wildlife unless you have the landscape for it. And so here you have a minister who can't seem to put that together and a ministry that seems to be unable to connect the two.

And so we saw that when it came to climate change. The ministry really fumbled and continues to fumble the ball on that, and really strives to blame anyone else, everyone else who's in the area, for their problems around this CO<sub>2</sub> emissions. The issue is that they are now the government. They are now and they have been the government for several months — two and a half years now — that they should be stepping up to the plate, and we should be able to be seeing by now, by now, results. I mean it was part of the Sask Party campaign. They did campaign on standards that they abandoned right away. And we see them lining up with the federal government who now are, in many ways, establishing themselves as one of the worst records in terms of environmental management at the federal level. And unfortunately we see this government lining themselves up with their federal people in the same way.

So here's a government that's having hard time managing, stabilizing greenhouse gas emissions. And we have a Premier who's talked about ragging the puck on this issue, who doesn't want to take the responsibility for this. And now they want to talk about a new environmental code, and we simply don't know what that'll look like. And here is where the greenwashing comes in. They like to tie it to what's happening in Europe, and many good things are happening in Europe, but they won't tell us exactly what they're talking about.

We know Sweden, in many ways the former prime minister of Sweden was a real leader, in terms of sustainability in the work that she had done in the '80s and even in the '90s. We know Jim MacNeill from Canada was the secretary-general of the common ground research. And if that's tied to that, that's wonderful. But we don't know. We don't know. They just throw out the word, we're doing it like Sweden. Well what does that mean? What does that mean? We see the nifty little PowerPoints and we have some real questions about that because we've heard stories about how you get a PowerPoint presentation if you're with this one type of stakeholder, a different PowerPoint if you're in with another type of stakeholder.

Everybody's getting different messages. Sometimes that's called spin, Mr. Deputy Speaker, when you spin for a certain public that you want to engage with; and another public you

want to engage with, you give them a different message. We think people in Saskatchewan deserve a consistent message.

So what does this environmental code look like? And they use terms like, this'll be like the National Building Code. And we all have a lot of faith in the National Building Code, and of course it harkens back to a time, harkens back to a time, when in Canada we had a national housing strategy. You can't have a building code without a strategy. And so here you have a situation here, and I hope that if they're using a building code and talking like that, what is the strategy?

So I digress there because I'm pretty passionate about housing. And when you're cherry-picking times from times gone by that were really great, when we had a full housing strategy led by a federal government that was deeply committed to that, and the building code really reflected that. But we see today — to continue to talk a little bit about the building code — new initiatives that are not being embraced by the building code.

And I'm talking about LEEDs [leadership in energy and environmental design]. And for many years now people have been talking and admiring the good work that comes out of the LEEDs initiative, and that's for the building for environmental efficiency. And different standards, and we know that there are buildings, in fact the STC [Saskatchewan Transportation Company] facility here in Regina was built to LEEDs standards. And we're really proud of that and it's a fine, fine facility. But it's not part of the National Building Code.

So if you're going to talk about a standard, a code, and say that's what we want to do it like, except the one problem with the building code is it doesn't get amended very easily. It's hard to amend, and it's hard for it to be innovative. And so you have other things that come along that are very, very strong but yet you can't make a part of how we get things done.

And so I have some real questions here for the minister. If she's going to have this code, how is it going to be innovative and rise to the challenges that we have in our society? And we also talked about you know, here's another example of the government claiming that it'll be setting baseline emissions requirements for major industrial emitters as part of its new air management system. And this is a little more than ironic, coming from a government that introduced, that introduced climate change legislation that contains no year, no year when greenhouse gasses will stabilize and no baseline year against which reductions engage, greenhouse gasses can be measured, and no greenhouse gas reduction targets in the Bill itself.

So you have to wonder, and I hate to use the metaphor, is this little more than hot air? And we get excited about terminology and greenwash and we're doing certain things, but what are you really doing if you don't have baselines and that type of thing?

Well, Mr. Deputy Speaker, I do agree that industry should be held accountable for the damage that they do to the environment, and that clearly that's one of the key principles in sustainability in environmental management of course is simply called, the polluter pays. And it should be done. The environmental degradation remediation should be done by the polluters who are responsible and making sure that they understand this upfront. So we agree with that completely, and

so it's important that that be brought forward through this legislation.

But the question then becomes how far do you let them take over this? And we'll talk more about this because in many ways we need to make sure that the people of Saskatchewan have confidence that the regulations, that the standards are being met. And if you're letting industry go too far down the road by monitoring themselves in this results-based new paradigm, we have some real questions about that because for sure self-interest and conflict of interest enters into this discussion. And when we're talking about the future of our environment, it's one that you don't want to leave to risk. And so it's really important that we watch this.

And you know, Mr. Speaker, we did, as a former government, we took this principle and we practised it ourselves. And in fact one piece of legislation we were proud of was ensuring that mining companies, particularly the uranium mining companies, took responsibility for their mines right upfront even before — and now we talk about it — before they commission new mines, is what's happening with the decommissioning and the final environmental reclamation. This is really, really important.

One other principle that I want to make sure, that I don't see present here, is the precautionary principle. And clearly when you have a ministry that is focused on the marketplace and making sure the marketplace has as few barriers as possible . . . And I don't think, in fact, I don't think environmental standards are barriers. I think in fact they enhance the quality of business and enhance the quality of the marketplace, but some see it as a barrier. I think that the precautionary principle has a real place in this discussion and I do worry that this minister, this ministry has forgotten about this principle because we do not see this as present.

I just want to take a moment and quote from the Clifton report that was used extensively and the company used extensively by this ministry, I understand, in fact at a great cost. I understand that there was several hundred thousand dollars paid to the Clifton company for the work that they've done over the past year or two. And of course we want to make sure we get good value out of that, because it's quite a price tag to be paying a consulting company.

But they say, and I quote: "Saskatchewan does not have . . . [the current] staff capacity or capability to monitor and regulate the current industry and oversee the social license." And it goes on to say that the Environment ministry is short of certain important skill sets — engineers, hydrogeologists, water quality and air quality specialists, toxicologists, epidemiologists, and risk assessment specialists.

So there's a whole host, a whole cadre of specialists in environmental protection that the ministry is short on, and yet we see in this current budget a cut, a significant cut in this ministry. So how do you square this sea change, this new paradigm shift doing this, not telling the people particularly what you're going to do — and your examples are full of blanks — you're going to do this change. We're not sure what it's going to look like, but at the same time you're short of the resources to make that happen.

I mean, they're asking for a lot of trust and faith and, Mr. Deputy Speaker, a lot of people simply do not have the trust or faith in this government, in this Premier, in this minister to actually see it happen.

We see questions being raised by former ministers of the Conservative Party this morning and we will continue to see . . . We saw it raised in the papers today by several conservation groups who have some real questions about the intent and the capability of this ministry to make sure that the environment is protected. So before we launch into this, there are some deep, deep concerns people have. And so I have some real, real concern about this.

And so I have some real concern with this and I have some real concern that this government may in fact be looking at — as it has with the Clifton group — to look at some outside source, some third-party supplier that will provide this specialization. And I have deep, deep concerns about that. And in fact Clifton does make a recommendation, and in fact and I'll quote here again:

. . . the Ministry of Environment should consider developing a long-term "preferred supplier" relationship with a private sector firm who could be kept on retainer to provide these capabilities.

[09:15]

And of course the government, not surprisingly, has agreed in its response and so I worry about that. I worry about that, Mr. Deputy Speaker, because here we should be developing the capacity within the government, within the public sector to do these types of things. Because this is ongoing work. This is ongoing work. And if you're paying a preferred supplier relationship, I'm not sure what that means. Is it a retainer that you pay an ongoing fee just in case you may need a certain specialist? Why not have that person on staff doing work continually?

And we've seen very good people within the ministry, and I hope many are still there. But I understand that there is a shortage, as Clifton has pointed out, and of course many groups, many organizations are feeling the pinch as we hit retirement. But I know this government has been particularly hard on some of the technical staff. And so I hope this is not a sign or a signal to people, particularly young people, that there is no future in public service here — that you can stand up to the polluters and make sure that they understand what the regulations are, and if they are breaking the regulations they will be penalized.

We were very proud on this side of the government to enact and to put into place an environmental prosecutor. And I understand that position has continued on, and that's very, very good to see because we think that they do just a great job. And we continue to see and we continue to read about that in the papers, about the good work this prosecutor and their group do to bring people who are breaking laws forward. But they need the background. They need the people in there. They need the public service there to support the prosecutor because the prosecutor can't do it by themselves. The prosecutor cannot do the technical work. They need the staff at the ministry level to be able to do the kind of work to make sure if there are laws

broken when it comes to environmental protection and assessment, that, you know, have the background. So we have some real, real concerns.

So in many ways, some people might say that in fact this results-based environmental management is privatization by another name. And so we are deeply concerned about that. Because when it comes to results-based, we have some real, real concerns. And as someone who's watched this over the course of time, we know that there are debates about the best processes forward. A lot of people get very upset with the command-and-control-based way of environmental assessment and protection regulations. And I think that's a very fair comment. I think we need to take a look at command and control.

When it was brought in in the late '60s and '70s and first with the American environmental management protection Act, groundbreaking legislation in the '60s under Lyndon B. Johnson — wonderful stuff, amazing stuff. But as time evolves, we have to continue to look at best practices, and how can we make sure that interface between environment and the economy is true about making sure this province, this world is sustainable?

But I'm not sure a results-based paradigm is the way to go. Because when you're focusing only on results, there is a lot of questions about confidence, a lot of questions about the processes, a lot of questions as I've just been raising in terms of those who are able to monitor this, to give the best advice to those who have been elected.

We feel that it's important that it's actually elected officials who are making some of the final decisions. I know the role of the minister is a hugely important one. I hate to see that diminished too much. But I think there is a way that we can do things better.

And in many ways when we were talking about the green strategy . . . and I think our landmark study, the Great Sand Hills study, which talked about a holistic approach to environmental assessment, is the way to go. It was a very innovative, new way of thinking about, how do we take a look at a certain area of our province? We know where there's going to be huge challenges in terms of environmental protection — particularly because it's so rich in natural gas resources — that we need to do the right thing. And so the Great Sand Hills afforded us a wonderful opportunity to test run some new ways of doing environmental assessment and protection, a holistic, landscape-based approach. We are very worried that that's gone out the window, and now we're talking about results-based only — and the end of the tailpipe is another way some people have called it.

And unfortunately it becomes much more secretive. It becomes a process removed from the public, so people have less confidence. It's not one that local people have a lot of faith in because they're removed from asking the questions. The people they elected, whether they've elected them to the provincial legislature or the federal House of Commons or their local RM [rural municipality] council or their local municipal council, it's removed. And so I have some real concerns.

I was really, really impressed by the good work that was done

by the Great Sand Hills Planning Commission. It was much more place-based, it was much more reflective of the local needs. And they've done some outstanding work, but how can you have a local economy thrive and yet still protect its environment and in fact have pride in its environment? And one of the big things in this — and I just have to say this is one that came really to mind at the Great Sand Hills — was the work with the First Nations in developing capacity for them to be able to participate in that planning process, in that evaluation process, and developing the capacity and working with the FSIN [Federation of Saskatchewan Indian Nations] and the local band, Nekaneet, and did some outstanding work.

And so we see now, in fact, steps backwards. And we know that the FSIN is deeply concerned about their relationship with the ministry and the minister, the Premier, about the recent cuts in the budget for the FSIN in the program that was allowing them to develop capacity so they could participate fully in these types of projects. It's really important that when you have the public and key stakeholders such as the First Nations, that they have the capacity to participate. And this government actually is stepping back from that. And so when you're having this code, developing this code . . . And the minister will say it's all about the science, but yet we don't want to develop the capacity internally and we don't want to help groups, particularly key stakeholders like the First Nations, develop capacity. It's a problem. It's a real problem.

And so you wonder, where is the trust? We see a Bill coming forward. Where is the trust? We don't know. They want a blank cheque to develop this code and we have some serious, serious questions about that. So, Mr. Deputy Speaker, we have some real concerns. We think this is a lot of . . . like I say, a blank cheque, worst maybe greenwash at the middle. We have some real, real, real concerns.

And so it is the role of the government to prevent environmental degradation where possible and not simply provide a judgment after the fact or way after the fact as to whether the damage has taken place. And particularly from if they are branching this out to the private sector, we have some real concerns. So the government has a role right up front to do this. And I think that there is a real missed opportunity.

And we know in the documents we've seen some talk about an environmental assessment commissioner, someone higher up, I think equal to the level of an assistant deputy minister. We have some . . . or associate deputy minister. And we've seen some really innovative things throughout this country in the last 10 years around environmental commissioner. Perhaps this is the worst example of greenwash because we know BC [British Columbia] had an environmental assessment commissioner and the government actually took it out, I understand, because it wasn't meeting their needs and they felt that it was just another cog in the wheel.

But we've seen examples of environmental commissioners do fantastic work, incredible work, and I'm thinking of Manitoba, Ontario, and actually the federal environmental commissioner. And that commissioner, at the federal level, works within the audit group at the federal level and works as an auditor. Did some outstanding work, some real leadership in being able to signal concerns about what's happening both within the

government's realm and concerns about what may be happening in how they should be monitoring better things that are happening at the federal level.

But again we see a federal government that's ignoring much of what the federal environmental commissioner has said. And we have some real deep, deep concerns about that. We see at the Ontario level and the Ontario circumstance where the environmental commissioner's actually an officer of the legislature, and I think that's an innovative idea and I wouldn't mind seeing that. I would have entertained that in our time.

I think this is an innovative way to make sure you have a third party, much like we have some of our officers of this legislature provide us some very sound information, some sound forewarnings about directions we're going. I just think about the Ombudsman and the good work that the Ombudsman has done, particularly around corrections. I know this last report last week was outstanding, but also the work that he had done a few years ago talking about overcrowding in jails which led to the building of new facilities.

And of course I do have to remark on the outstanding work of the Children's Advocate and their work around foster care, and I think we can all agree that we benefited an awful lot by the leadership of the Children's Advocate in flagging concerns and providing that third party, non-partisan view about the concerns we should have.

And so I think there's been a missed opportunity by the minister to engage in that type of environmental commissioner, as opposed to an environmental assessment commissioner. While it's high up in the bureaucracy, it's kind of low down in the priorities, and I'm not sure exactly how much work and how much we're going to see from that. And of course that person does report to the minister, reports to the deputy minister, and works for this government and so clearly is not totally unbiased, and we think that we have some deep concerns about that. And so we have a missed opportunity about what the role of an environmental commissioner could be doing here. I think it's a real missed opportunity.

I think that the Clifton report also notes, and I will quote, "Saskatchewan does not have . . . [the current] staff capacity or capability to monitor and regulate the current industry and oversee the social license." And so it goes on, and here we have that same thing about having the expertise. And so we have . . . And I want to say, I do want to say that, as I've said earlier, that the ministry does have a strong cadre of people immersed in the science of environment, and they do good work. But we want to make sure that there's enough coming up, and we've seen, and clearly this government has said that it's looking for a reduction of staff, some 16 per cent over the next four or five years or even more, and what impact that will have on the scientists in the department. So clearly we have some questions about that.

[09:30]

So, Mr. Deputy Speaker, I've thought a lot about this issue and one of the concerns I have . . . And there was this very good book, a very good book called *Unnatural Law*. It was written by a professor from the University of Victoria and one that, as you can see — and I won't use it as props but I do want to quote

from it — that it talks about some of the things that have happened in Saskatchewan, right across Canada. And so I do want to take some quotes out of this, so I'll be reading directly from that.

But it does talk about . . . Now we're not talking about *The Forest Resources Management Act*. But I do want to take a quote here that says . . . And this book was just written, I think it's 2004, 2003, David R. Boyd, and the book *Unnatural Law: Rethinking Canadian Environmental Law and Policy*. And a very outstanding piece of work here because he really has a chance to look back, look right across the Canadian landscape and what is the best thinking about environmental assessment here in Canada. And I think we can take a lot from this book.

Well he writes about Saskatchewan, and he's talking about *The Forest Resources Management Act*. And he says, and I quote:

In 1996 Saskatchewan enacted the *Forest Resources Management Act*, described by the provincial government as “the most comprehensive, forward looking forest management legislation in . . . [Canada]. The innovative aspects of the *Act* include a commitment to create a provincial accord every ten years to outline broad principles to guide forest planning and management.

And he goes on to say, Saskatchewan has been praised, and I quote:

Saskatchewan has been praised for its “more holistic and participatory approach to forest management,” which recognizes “Aboriginal peoples, local communities, and the general public as legitimate players in forestry policy-making.

So it recognizes, he recognizes the whole idea of the general public, and I think that's huge. I think that's very important when we talk about this. Stakeholders play a real role, a critical role, in how we shape policy, but we cannot forget the general public.

Well David Boyd goes on in his chapter, chapter 8, systematic weaknesses, and he talks about six weaknesses that seem to plague Canadian policy-makers when it comes to making good environmental assessment policy, and I'd like to quote:

While it is encouraging to recognize that Canada has made progress in some aspects of environmental protection, the reality is that on most environmental issues Canada is performing poorly. On seventeen of twenty-five environmental indicators, Canada is among the five worst nations of the OECD. The failure of Canadian environmental laws and policies results, in large part, from six systemic weaknesses. First, Canada still lacks a number of important environmental laws that are commonplace in other industrialized nations. Second, existing Canadian laws and regulations are undermined by excessive discretion. Third, environmental laws and policies fail to reflect contemporary scientific knowledge and principles. Fourth, Canadian environmental law suffers from inadequate resources for implementation and enforcement. Weak implementation and enforcement are exacerbated by budget cuts, the downloading of

environmental responsibilities (from the federal government to provinces, and from provinces to municipalities), and excessive reliance on voluntary initiatives. Fifth, the public has insufficient opportunities to participate meaningfully in developing and enforcing environmental laws. Sixth, Canadian governments rely on an unduly narrow range of law and policy options in their efforts to protect the environment.

So, Mr. Deputy Speaker, here you have six systematic weaknesses. And I would like to take a few minutes to go through each one to talk about where this minister and this ministry has failed because we see, even though this book was written in 2003 — some seven years ago — we're seeing it repeat itself today.

You can just take a look at the budget cuts. Here we are, and he's saying, Dr. Boyd is saying, budgets cuts, how can you have effective laws when you're cutting budgets in that department? And I have some questions about that.

All right, so I want to talk a little bit about the excessive discretion. And I see . . . And I don't have it in front of me, but I know that one of the other Bills we're talking about is *The Wildlife Habitat Protection Act*. And the discretion that is taken out of this legislature and placed into regulations is just one example of the discretion that David Boyd is talking about. It's shameful when you have a body like ours who can work through this. And it's not been a problem. We've been able to work through the amended . . . We can work through amendments when we take out pieces of land that the government has determined should be taken out and they have land to put back in, this no net loss policy that has been a time-honoured policy for many decades now.

But we see the removal of the powers of this legislature into the hands of the minister. And what's even shocking about that . . . Because I know one of the consequential pieces to the wildlife habitat protection amendment Act is the conservation easements where she says, the minister will say, that there will be no . . . for sure the easements will stay in place. Except for, if you read the conservation easements, one of the sections talk about how she can let those easements go. And if she decides to let the easements go, if, if, if she decides to let those easements go, her decision is final, is final. I cannot believe that.

So that's just one example. And we can go to many more examples of how this government is taking things out of the legislation and putting it into their own discretion. And how is that strengthening environmental management and assessment? We can go through many, many examples, but clearly that's a problem.

And third, environmental laws and policies fail to reflect contemporary scientific knowledge and principles. Well here we have great work, great work done in the Great Sand Hills, an amazing study that has been done by the Canadian Plains Research Centre. We contracted with the research centre to do this work. We have not heard a word from this minister about this. They say that it's still in consultations and stuff, but they can be doing other things. They can be doing other things. Many of the people from the area are actually very concerned that all that work has been done and out the door.

And in fact we had, we had some very important . . . We had an outside, an external examiner from Florida come up to make sure the work that was doing reflected the best science, the best science. And I cannot believe that this minister, in terms of the greenwash that's happening, you know, cuts funding from the FSIN to help them develop the capacity in terms of the technical knowledge and then yet has the nerve to say it's science based. You know, the things that they do. There's so many mixed messages here about science. It is deeply, deeply alarming, deeply alarming.

And of course, you know, the budget cuts. It's just amazing when you have a government, a government, a Premier who oversees one of the largest budget cuts in this department and then says, we are all for this. And then at the same time, farms out significant contracts to the private sector, significant contracts to the private sector while they should be developing their own capacity within the department. I think this is alarming. And it's an alarming thing because we know, particularly for young people, for people coming up, that the environment continues to be a significant issue. But the signal from the province of Saskatchewan is, you won't be hired from us. You won't find a role in the public sector. You will have to work in the private sector. And of course that is a concern because we know when it comes to enforcement that we need to have a strong public sector. And this creates all sorts of problems.

And of course Dr. Boyd talks about the opportunity for the public to have an opportunity to participate. And we see this as a real problem because we know that this government has a real track record, a strong track record of actually not consulting with people and in fact particularly with the public at large. They will say, stakeholders are the people to consult with. And when they do that . . . And we've heard stories about this — because we don't get invited to many of these things, we don't know when they're actually happening, when the Ministry of Environment's doing their consultations — but we've heard stories about the consultations, about how they've been tuned, tuned to the stakeholder that they're playing to.

Now they may say, well that's appropriate because you want to make sure you have the relevant information or as some people might say, spin. Because we all have to live under . . . We all are going to have to live under this code, aren't we. So why reflect on this one view, one spin of the code and not be hearing other people? I think we'd all benefit from a rich discussion around the state of our environment and how we're going to make sure that it's sustainable, and not have us clustered off into silos and say, listen you just pay attention to this, you pay attention to that, and you pay attention to that. That doesn't work. That doesn't work in the environment. That doesn't work. We all know that. And so this silo approach to communications is significant, and it's alarming because we're going to have problems down the road.

Because we know in the economy it's all working together. And we all want to work together. We all want to make this province the best place to be, the best place. And we've often said, best place to live and raise a family, and we think we all agree on that. We all agree on that and one of the best things about Saskatchewan is our environment.

But it's terribly at risk because, because our environment is so driven by the resources of this province, and that's not a bad thing. We've been able to develop some real expertise in that area. We have some of the best standards when it comes to labour standards, particularly when it comes to resource-oriented sectors — thinking of mining. We do have some questions now about how strong that it is, but we've had a strong history of that.

And so in the last reason we talked about . . . was around Canadian governments relying on an unduly narrow range of law and policy options in their efforts to protect the environment. And I know I can talk about Canada, but you could just interject Saskatchewan every time I say Canada. But in this case, this minister's looking to Canada for its national building code as an example.

And of course we all think that's a good building code because in many ways we've seen what's happened around the world when you have tragic circumstances whether it's hurricanes or earthquakes. Now we aren't, in Saskatchewan, subject to those, but we are subject to other natural disasters whether it's particularly the cold. We think about how important it is to have strong building codes when it comes to how strong our houses can withstand the natural environment.

But as David Boyd talks about the narrow focus and as I talked about with the building code, in fact it has a narrow focus and doesn't lead to innovation, and we see out-liers such as LEEDs, where you have building designs where you actually are improving on how buildings can be built. But it's not part of the building code, and it's not required. It's voluntary. It's voluntary.

And yet in many ways, many people would suggest that we should be looking at that conservation as being part of the building code. But as best as I know, Mr. Deputy Speaker, that's not part of the building code, and it's unfortunate. It's very unfortunate that innovation is left out. So where is the role of innovation in this code? So we have some deep, deep concerns about this.

And I could go on about this, and I know that there is some really strong parts about this that where we have flagged some real concerns. And I guess I will, I just want to talk a little about this excessive reliances on voluntary initiatives.

[09:45]

And I know . . . and again, this conservation easement is a perfect example of voluntary initiative because what we're asking landowners to do is to voluntarily do the work that the government should be doing. And well, you know, the first landowner may say, I'm up for that. I'm good for that. The second or third landowner may say, hey I don't quite remember all the details of how we made this agreement, and so I'm looking for some changes here. And so this has been a real problem. This has been a problem.

And another example, and we started this initiative around the low-flush toilets, but yet we don't see anything done in terms of stringent regulations about water consumption. And I know the minister the other day . . . And I do want to say that I do agree



that if you can have clear, understandable water bills so those who are using less actually pay less, that's a very good idea. That's a very good idea. And I think that if we can have clear water bills that other things aren't attached on it — because we have a problem when you have water bills being used as almost a form of taxation to pay for other things where taxes should be actually charged for — that's a good thing. But we do have a concern about excessive reliance on voluntary initiatives.

And I just want to quote here from David Boyd because I think he says this so well.

For example, instead of passing laws and regulations to govern greenhouse gas emissions, reduce smog, increase motor vehicle fuel efficiency, or require energy-efficient buildings, the federal government made voluntary agreements with industry. Advocates of voluntary agreements claim that they are more flexible and can achieve progress faster and more efficiently than regulations. [But] Critics argue that voluntary initiatives lack transparency and accountability, encourage free riders, undermine the role of government, maintain the status quo, have high administrative costs, and preempt more effective measures to protect the environment.

[And he goes on] Despite their promise, voluntary agreements in Canada have largely failed, and we see particularly greenhouse gas emissions continue to rise . . . [in spite of some of the voluntary things].

And so this a concern we have, particularly around results-based standards and how you have this voluntary approach. Now they won't use the word voluntary because in their greenwashing, that's not the word. But they talked about all these things that they're doing, but where are the standards? Where are the regulations? Where is the legislation? Particularly, where's the legislation? We see them talk about the climate change piece with no baseline, no targets. So what's happening with that? How can you have it both ways? You talk about results-based, but you don't want to have any results. Or the word results seems to be a pretty nebulous word. We're not sure what that means. And so we have some real concerns about the greenwash that's happening over there.

This faith and trust that we're supposed to have in this government that continually is burning up its social capital, Mr. Speaker, quite frankly burning it up because we've seen on so many fronts where people are expected to trust this government, and they've let them down. And you can go through it, whether it's labour and the International Labour Organization that's cited this government for breaking trust with labour in terms of how to do proper consultations, how to properly develop new laws. We've seen that at the international level.

And we've seen it gone right down in my own circumstance where we have people calling about breaking the trust around the domestic abuse outreach program. I mean, you take any example and you see a government that is saying trust me. Trust me. And I have to tell you; it's very hard, very hard to trust this government because clearly you have some real problems.

So as I've said, we have a government that doesn't want to develop its own public service here in saying this, and we're

more interested in developing a private sector that we will pay. And is that sustainable? Is that sustainable, especially when the rubber hits the road and you have to do some tough work? This puts us in a very awkward, compromising position.

But at worst though, I mean we really do want a stronger . . . We have such a reputation here. We can have the potential for doing good work here in Saskatchewan, but we seem to have lost its way. The government has lost its way here. And while they're shifting this to a market-driven Environment department, we have some real, real concerns with that.

And I do want to say, from my perspective — and I know sometimes people think that I talked a little bit about this — the lack of meaningful opportunity for public participation or enforcement and we just see this, that we think that there needs to be more work here. David Boyd talks about: "In 1990 the Canadian Bar Association (CBA) observed that greater public participation in environmental decision making would produce [and he quotes] 'fairer decision making and better decisions' but that citizens are 'either excluded from the process or treated as second-class citizens.'"

And here you have a government that seems bent on doing that. And still now he goes on to say, "While access to information has increased in recent years . . ." And of course that was before Harper became Prime Minister, and it's actually decreased. He goes on to say ". . . the public's role is still largely restricted to being notified of government decisions and provided with an opportunity to comment upon proposed decisions."

And in fact we're seeing the exact opposite of that. We are not even seeing the proposed decisions. We are seeing that there will be proposed something decision. We don't know what the code is, but we want you to have, the public needs to have faith in this. This is a real problem.

And I talked about the narrow view that this government is taking about the results-based legislation and framing it in terms of a code, and wouldn't it be better if we just had a code. And in many ways, there is a strong argument. Of course our biggest argument is we don't know what that code is. We haven't seen what it looks like. We know that they say it will look like something between the Canada's building code and the Swedish code of environment. But we have not seen that. And I have not seen that, and unfortunately I would like to see more of that because I'm intrigued by that.

But, David Boyd, and I just want to quote here again:

Canada is paralyzed by a longstanding and intractable debate between two polar extremes: the strict command-and-control environmental laws on one hand, and deregulation accompanied by voluntary measures on the other hand.

And so you know, *The Wildlife Habitat Protection Act* is a prime example of that, where we've seen deregulation and voluntary measures. I mean, I wonder what David Boyd would have to say about the things that are happening today in Saskatchewan because it's such a textbook example of how you're deregulating *The Wildlife Habitat Protection Act* and you're asking people to step up and voluntarily do their part for

wildlife biodiversity in Saskatchewan.

You know, that's an example — a clear example — of this problem, of the two extremes. And as I said, what we did in the Great Sand Hills, where we did a place-based environmental impact or environmental research project, engaging the local people, engaging the First Nations, and making sure, engaging the scientific community from the University of Regina and the external examiner from the United States, University of Florida, and giving them the resources to do a proper job. There's somewhere in the middle where we can say this is good work. This is good work. And everybody's feeling good about it, but it's being stranded because we're going from one extreme to another.

We're saying we don't want the command and control; that's old style. And there are problems with that. We could do better because the world is much more complex. But until we have the resources and the expertise, we better watch what we're doing around this new deregulation, privatization, market-based environmental assessment way of doing business. So we have some real problems with that.

So, Mr. Speaker, I'm going to end my comments in just a few minutes here, but I do want to say, I do want to end with a quote from a book that a student, not my student, that said, when I was minister of Environment, said you should have this book on your desk. And it was a fantastic observation. And I just want to read this into the record. This person attended Marion Graham and was part of the environmental classes there, and she said this is just a wonderful book by professor, former professor — I believe he's now passed away — Stan Rowe, *Home Place: Essays on Ecology*.

And I think that we have to take a look and think about the bigger picture. We really are, Mr. Speaker, at a crossroads here. And we have an opportunity, and we do have an opportunity to do the right thing in Saskatchewan. This Act here really is about a sea change about how we do environment in Saskatchewan. We were hoping for one that was based truly on the economy about how we meet our needs, not about how we meet our wants and desires, not based on a market-based economy, but on a true economy of everyone's needs.

But I just want to quote from Stan Rowe and here's the quote:

Yet we have our moments of enlightenment. Collectively and recurrently we show our truer colours, banding together to accomplish worthy goals, freely giving in the interests of . . . higher good, responding to prophetic visions in times of crisis.

Oh I'll continue, "One such time is . . . upon us [now], and its demands are not excessive." So, Mr. Speaker, we have the opportunity to do the right thing. And we could be doing the right thing, and I hope that we take that opportunity to do the right thing. So, Mr. Speaker, with that I will take my seat. Thank you.

**The Speaker:** — I recognize the member from The Battlefords.

**Mr. Taylor:** — Thank you, Mr. Speaker. I want to say a few words about Bill 121, an Act representing the management and

protection of the environment that also repeals *The Clean Air Act*, *The Environmental Management and Protection Act*, *The Litter Control Act*, and *The State of the Environment Report Act*.

Mr. Speaker, I want to make a few remarks following the member from Saskatoon Centre, who I hope members were paying close attention to. I've known the member from Saskatoon Centre for a little over 20 years, Mr. Speaker. I know, as many in Saskatchewan know, that his reputation on environmental matters is very strong. He has a great deal of credibility in the province, Mr. Speaker, in environmental circles, and I would ask members opposite to pay very close attention to the remarks that he just entered into the record. Mr. Speaker, I can tell you that when the member from Saskatoon Centre speaks and says that he has concerns about this and further questions about this Act, really, Mr. Speaker, the government should, should be listening.

Mr. Speaker, this Act for all intents and purposes serves to change the way in which environmental protection, environmental management, combined with other changes in other Acts, Mr. Speaker, essentially changes the way in which government looks at environmental matters and responds to concerns that may exist throughout the province. We see the development of some new language as this Act comes forward, Mr. Speaker. The key Act in all of this is, the key language is results-based environmental regulatory framework. Sounds good on the surface, Mr. Speaker, and that's why Saskatchewan people have to spend some time trying to understand exactly what it means, results-based environmental regulatory framework.

[10:00]

Bottom line, Mr. Speaker, essentially it means less government. It means less government, Mr. Speaker, coming from the Sask Party. The Minister of the Environment is indicating that it's exactly what New Democrats were looking at, Mr. Speaker. I think the environmental community in Saskatchewan knows that if New Democrats do something, it's going to have a positive effect. If Sask Party members do something, it'll have a negative effect, Mr. Speaker. So essentially you have to understand exactly what's behind the language.

More importantly, Mr. Speaker — and this is, I think, very interesting — there's other phrases and language that comes through in this legislation and this package, Mr. Speaker. We hear the minister and the Sask Party members talking about a new air management system. I think that's very interesting. Mr. Speaker, an air management system. It sounds like indeed they're going to control air flows, etc. The Act does recognize that pollutants in the air can come in from other jurisdictions.

But while on the one hand when they make environmental speeches and talk about air management systems on one hand, the Premier is at a conference talking to other provinces about a Western Economic Partnership Agreement that could in fact if signed — we haven't seen this agreement, Mr. Speaker, so we don't know exactly what's there — but the Western Economic Partnership Agreement could in fact jeopardize Saskatchewan's ability to manage air that moves in from other jurisdictions, Mr. Speaker. And that would be a significant negative element for

Saskatchewan people to have to cope with, Mr. Speaker.

So an environmental speech on the one hand talking about air quality and an agreement signed on the other hand that may have a negative effect on air quality, Mr. Speaker — do one thing; say another. It's just typical of what we've been seeing from the Sask Party government since their election in 2007.

But, Mr. Speaker, think about those words again: air management system. Where have we heard something like this before? The Minister of Advanced Education, Employment and Labour liked to talk about his tuition management system. What happened with the tuition management system, Mr. Speaker? It made university less accessible to Saskatchewan people, Mr. Speaker, because it increased the tuition at the universities in Saskatchewan. The tuition management system was actually a negative effect in Saskatchewan. So air management system, perhaps we can think of that as a negative connotation for the province.

And what about their financial management system, Mr. Speaker? Oh my goodness, 2.3 billion in the bank to a billion-dollar deficit, Mr. Speaker, potash projections that were wildly out of whack, cutbacks that are occurring across the piece in Saskatchewan, Mr. Speaker — their financial management system hasn't been very good. And this last week, what about their legislative management system, Mr. Speaker? We're seeing this government panicking as they try to build support for their legislative agenda, a legislative agenda, Mr. Speaker, that is receiving a fairly negative response from Saskatchewan people.

So, Mr. Speaker, we've got catch phrases — results-based environmental regulatory framework, air management system — phrases that help to make you feel better when all things around, all things around you are collapsing, Mr. Speaker. It's just the way in which we can expect this government to work. They want you to feel good; that's where the cheerleading and pompoms come in. But when it comes to action and doing the work that needs to be done, Mr. Speaker, tremendous failure on the part of the members opposite.

More importantly, Mr. Speaker, the minister talks about consultation and talks about discussing these matters with people throughout Saskatchewan. Mr. Speaker, consultation is becoming something that the public is — what should I say? — the public is skeptical when the government says there have been consultations. So Mr. Speaker, there's got to be evidence.

Speaking of results-based, Mr. Speaker, let's have a results-based consultation process in which those who are consulted feel like they've been listened to. That's the key part of consultation, Mr. Speaker, is that those who have been consulted feel that they've been listened to. The bottom line in my review of the consultation process opposite, Mr. Speaker, is that the government has failed miserably. Just for example, we know that this legislation was tabled towards the end of the fall sitting, towards the end, in fact almost the last day, of November of 2009, Mr. Speaker. The government tabled the legislation after what it said was some consultation.

In the November issue of the Saskatchewan Wildlife Federation's magazine — it's called *The Outdoor Edge* — the

executive director of the Saskatchewan Wildlife Federation, Darrell Crabbe, wrote the following. And Mr. Speaker, it specifically related to consultations that the ministry and the minister were paid doing with regards to this piece of legislation and others that we can refer to. Here's what Darrell Crabbe wrote in November: "... the SWF was recently invited by the Ministry of Environment to participate in a comprehensive review of the Province's environmental legislation with a stated goal of 'most effectively protecting the environment and managing resources.'" I continue to quote, Mr. Speaker, from his writing in the magazine.

There were just over 20 groups that were consulted. Only two of these groups were conservation or environmental organizations with the overwhelming majority being made up of industry. The presentation was designed to promote a results based system that would streamline the regulatory review requirements to accommodate resource development and, supposedly, enhance the protection of the environment.

Mr. Crabbe continues, and I continue his quote:

I don't think anyone is opposed to the responsible development of our province's resources and the economic benefits that will be enjoyed by the residents of Saskatchewan. But one only has to consider the importance that the environment has had in the last Provincial and Federal election to understand that environmental protection is paramount in the long term, sustainable development of our resource rich Province.

So, Mr. Speaker, the Wildlife Federation was saying back prior to this legislation being introduced that the consultation was inadequate.

Well, Mr. Speaker, in addition to that, the government brought in a number of other Bills, including one called the habitat protection designated lands Act, Mr. Speaker. And for all intents and purposes this Act, designed to protect habitat, is also moving matters from a legislated-based, government responsibility to a regulated base, Mr. Speaker, which is cabinet making decisions behind closed doors, going from a transparent, public process to a not transparent, unaccountable process, Mr. Speaker.

And what is the Wildlife Federation now saying, Mr. Speaker? Conservation and wildlife groups are urging — and this is today, Mr. Speaker — this is in today's newspaper, the *Regina Leader-Post*, first paragraph: "Conservation and wildlife groups are urging the provincial government to hold off on changes to the Wildlife Habitat Protection Act that would allow some protected Saskatchewan land to be sold." Darrell Crabbe again, of the Saskatchewan Wildlife Federation says, "This is a huge issue for us . . ." More consultation is necessary before trying to pass those amendments.

So, Mr. Speaker, on this whole process of changing the way in which environmental matters are handled, going from a public, transparent process to a non-transparent, cabinet, unaccountable process, Mr. Speaker, the Wildlife Federation, as back as long as two years ago, saying the consultation isn't adequate and now they're saying following the introduction of the Bills and a

review and a discussion amongst their membership and the public, they're saying the consultation was not good enough, Mr. Speaker, and the results shown in these pieces of legislation, Mr. Speaker, are indeed false and wrong.

Mr. Speaker, consultation is absolutely critical to getting it right. And we're seeing quite a number of circumstances where, Mr. Speaker, they haven't got it right. On this piece of legislation, the Federation of Saskatchewan Indian Nations has had something to say about it. And just a little over a month and a half ago, the minister received a letter from the Vice-chief of the Federation of Saskatchewan Indian Nations, Lyle Whitefish, who had this to say, and I want to quote from his letter: "The Federation of Saskatchewan Indian Nations has identified a number of questions and concerns with regard to 'Results-Based' regulatory review, and Bills 121 [which we're talking about today, Mr. Speaker], 122, and 123."

And he says, "Please see the attached submission outlining the concern about the impact of these Bills to First Nations rights." The letter goes on:

Given that the Ministry of Environment has indicated to the FSIN that no substantive changes can be made to the Bills after second reading, without having the Bills repealed, we expect that the Crown will seriously consider and substantively address the concerns outlined in our submission prior to second reading of Bill 121, 122, and 123, so that measures to accommodate our concerns about the impact to our rights can be incorporated into the Bills.

So, Mr. Speaker, they are asking before the second reading speeches occur that these concerns be taken into account. Well, Mr. Speaker, obviously that hasn't happened. But more importantly, there is some concern that the FSIN was told that no changes could be made to the Bills after second reading. The ministry can't be saying that, Mr. Speaker, because, of course, in committee all sorts of changes can take place within the Bills, Mr. Speaker.

So number one, the minister and the ministry haven't listened to First Nations to begin with. Secondly, they're providing them with information that says go away. The process is started because . . . and you can't change it now so don't say anything more. And thirdly, Mr. Speaker, they're not considering the request by the First Nations to hold back on these changes until their issues and concerns have been raised.

So on the one hand, you've got the Saskatchewan Wildlife Federation whose membership, by the way, exceeds that of all political parties in this province, Mr. Speaker. The Wildlife Federation is saying back off on legislation that's in front of us. The Federation of Saskatchewan Indian Nations, Mr. Speaker, is also saying back off the legislation. Let's do more consultation, and let's get it right.

Mr. Speaker, the letter from Lyle Whitefish continues, and I will quote:

The law developed in the last several years makes it clear that meaningful consultation must take place on procedural and substantive issues related to conduct

which may affect First Nations rights, inclusive of the development of regulatory regimes. First Nations have directed the FSIN to work with the Ministry of the Environment to develop a mutually agreeable and comprehensively funded consultation process with respect to the regulatory review.

The letter goes on to say, "Minister Heppner, while I have not received a response from you with respect to my previous request for a meeting to move forward with such [a] consultation . . ." I repeat this request today. I look forward to the Crown's response, etc.

Well, Mr. Speaker, all of this is very interesting because this government says to us, as we are to consider the second reading of Bill 121, that consultation has occurred. But, Mr. Speaker, as I said earlier, consultation has value when those who have been consulted feel they've been listened to. And we have two major organizations, groups and representative groups, Mr. Speaker, who are saying they do not feel that the consultation resulted in their issues having been listened to.

So it's not just the member from Saskatoon Centre who is saying we have some concerns and questions about this legislation, Mr. Speaker. It's the people of Saskatchewan who are saying that. This whole business of act first and consult later that we've seen on so many things like Bills 5 and 6, Bill 80, the wildlife habitat Act, Mr. Speaker, are all an indication that this government does not take consultation very seriously.

Mr. Speaker, this Bill moves matters, so I don't want to . . . I won't spend much time getting into the substantive nature of the Bill, Mr. Speaker. My colleague from Saskatoon Centre did a good job of that. But essentially it moves things out of legislation, and it moves things into an area of more discretion.

And, Mr. Speaker, even if the members of the public had confidence in this group of government members, Mr. Speaker, which I know that confidence is failing, but even if the public had confidence in this group of members, Mr. Speaker, would they continue to have confidence in future groups of members, Mr. Speaker, to have the discretion to protect our environment, to protect our habitat, to protect our rights, Mr. Speaker? I don't believe that that's the case. That's why a legislated process has always been valued by the public in Saskatchewan.

[10:15]

So, Mr. Speaker, I think indeed we've been able to put the arguments that we have picked up from the public on the record, Mr. Speaker. The questions and the concerns have been put. I think some of the significant and serious questions that we have now need to be asked of the minister, and therefore, Mr. Speaker, when I am concluding my remarks here in a couple of minutes, we are ready now to have this Bill in committee where the questions can be asked.

So, Mr. Speaker, I just want to say in conclusion that people need to have trust and confidence in their government. Actions that have been taken on this Bill, on the habitat Bill, on financial matters, and on managing the legislative process here, is decreasing confidence that people have in the Sask Party government. There's no evidence, Mr. Speaker, that a building

of confidence and trust can be achieved by this government. And therefore, Mr. Speaker, we will continue to raise issues. We will continue to ask questions, and we will continue to remind the government that they need to have the confidence and the trust of the people of Saskatchewan, sadly lacking today, Mr. Speaker.

So with that, I will conclude my remarks and indicate that the New Democratic Party opposition is prepared to send Bill 121 to committee.

**The Speaker:** — Is the Assembly ready for the question?

**Some Hon. Members:** — Question.

**The Speaker:** — The question before the Assembly is the motion presented by the Minister of the Environment, that Bill No. 121, *The Environmental Management and Protection Act, 2009* be now read the second time. Is it the pleasure of the Assembly to adopt the motion?

**Some Hon. Members:** — Agreed.

**The Speaker:** — Carried.

**Law Clerk and Parliamentary Counsel:** — Second reading of this Bill.

**The Speaker:** — To which committee shall this Bill stand referred? I recognize the Deputy Government House Leader.

**Hon. Mr. Harrison:** — I designate that Bill No. 121, *The Environmental Management and Protection Act, 2009* be referred to the Standing Committee on the Economy.

**The Speaker:** — The Bill stands referred to the Standing Committee on the Economy.

### Bill No. 122

[The Assembly resumed the adjourned debate on the proposed motion by the Hon. Ms. Heppner that **Bill No. 122 — *The Environmental Assessment Amendment Act, 2009*** be now read a second time.]

**The Speaker:** — I recognize the member from Regina Coronation Park.

**Mr. Trew:** — Thank you, Mr. Speaker. Today I get to speak on Bill 122, *The Environmental Assessment Amendment Act*. Mr. Speaker, this Act is nearly 30 years old. It was brought in some 30, roughly 30 years ago to provide some surety. It's to cover two essential purposes. One is to protect the environment from industrial and commercial and residential encroachment that is undue or that unduly degrades the environment. So environmental assessment has to be done before you have a development, and the whole purpose of that was to, Mr. Speaker, to help protect the environment. It was that recognition, believe it or not, 30 years ago. Some of us thought that that recognition was too late even 30 years ago, but that was one of the purposes of this Bill 30 years ago.

The second purpose was to provide some understandable rules

for industrial, commercial, and residential development that would enable essentially anyone interested in going through, going through the same steps, if I can describe it that way, to make sure that my proposal and someone else's proposal would receive the same consideration. And that consideration, of course, would be protection of the environment and to make sure the developers in the example I just used would have essentially the same hoops to jump through or the same questions to answer, the same environmental protection considerations to have.

There's a lack of trust on our side for this Bill, and it's quite simple to understand why we'd have a lack of trust. We have a government that has proven over and over, the Sask Party government has proven over and over that they're not consulting with people. The member for The Battlefords, just moments ago, gave an example of the Federation of Saskatchewan Indian Nations being left out in the cold with respect to environmental Bills, and this, this despite the fact that laws that have been developed over the last several years have made it quite clear that meaningful consultation must take place on procedural and substantive issues related to conduct which may affect First Nations rights inclusive of the development of the regulatory regimes.

The law is becoming increasingly clear that there is a duty to consult. Common sense would tell you that there's a duty to consult. Common sense would tell us that it's pointless to pretend to be benevolent dictators and say it's my way or the highway. And yet that's what's going on, Mr. Speaker, with respect to this piece of environmental legislation.

In the minister's first reading speech, the minister says, "The purpose of this Act is to ensure that economic development . . . proceeds . . ." Economic development proceeds — pretty clear where the minister was coming from in her second paragraph.

In the next paragraph, the minister says, "The amendments proposed provide a formal process allowing a proponent to voluntarily apply for a . . . [ministerial] screening decision . . ." In other words, just apply to the minister, and the minister can do a quick screen and say yes to that development. And this is, according to the minister, to provide ". . . predictable review processes by the ministry." Predictable. Yes, pretty predictable.

We have a Sask Party ministry that, in 2007 during the last provincial election, the Sask Party promised that they would honour the outgoing — what turned out to be outgoing — New Democrat government's carbon dioxide targets. And they said absolutely us too, going so far as to leave the people of Saskatchewan with the impression that that was a minimum standard and that if they could, they would exceed those CO<sub>2</sub> reductions. That's what they said then, some two and a half, just over two and a half years ago.

Since then we've seen no action. We've seen carbon dioxide emissions in Saskatchewan continue to rise. We've seen a change in the target that not only took the base year but moved it up two years thereby dropping two years of carbon dioxide increase, building that into the base, then reducing the target from 32 per cent to 20 per cent reduction of a bigger base. So it's just absolutely watering down and treating the environment with disdain.

And that's why, when we get into this piece of legislation, this piece with the demonstrable lack of consultation with First Nations, with the Federation of Saskatchewan Indian Nations, and others, that's why we have a lack of belief that this Bill is going to protect the environment in any meaningful way.

And, Mr. Speaker, I can't imagine anything much worse for an opposition than to have a government jam legislation through that in the name of the environment, for Heaven's sake. They've said in the media that we have to pass this legislation, have to pass these environmental Bills. Well why on earth would we be in a rush to pass environmental Bills that not only do so little to protect the environment, but they're major steps backwards?

The government can do much better. They can do much better than they're doing right now, and they should be doing much better than they're doing right now. And they would enjoy the support of not only the opposition but of the people of Saskatchewan if they would move on the environment because in the coming years, Mr. Speaker, people, residents of not only Saskatchewan but all provinces in Canada and territories and countries of the world aren't going to be suggesting that their governments have moved too slow on issues of the environment . . . Or pardon me, they're not going to be suggesting that governments have moved too fast. I misspoke. I want to be very clear about that. People are not going to say governments have moved too fast in protection of the environment in reducing CO<sub>2</sub> emissions. People are going to worldwide be saying governments were asleep at the switch. Governments allowed the continued denigration of the environment. Governments allowed CO<sub>2</sub> emissions to rise at unprecedented rates, and governments had an obligation to do better.

And that's going to be what many legislators are going to be remembered for. And that's a shame because we can do better. We can, in fact on environmental protection Bills, we can make meaningful steps forward. Never, ever in the history of Saskatchewan have we had more ability financially to do better than we have in the past. The financial capability of this province are greater today than they've been at any time in the history of Saskatchewan.

So a lack of resources is absolutely not an excuse. Well it's an excuse, but it's not a legitimate reason to arguably do nothing or to do what the government wants, and that is that we should rag the puck on addressing climate change. And that's straight from the Sask Party government, straight from the Premier's mouth. They want to rag the puck on addressing climate change. And that's a terrible shame, Mr. Speaker.

We have in this Bill 122, *The Environmental Assessment Amendment Act*, Mr. Speaker, the minister in her first reading speech saying as a quote — incidentally this is found on page 3929, December 2nd, 2009 *Hansard* just if anyone wants to follow the quotes — the minister closed, "Mr. Speaker, in closing, extensive consultations have occurred with industry and stakeholders, and we are acting on their key recommendations."

Well, Mr. Speaker, this flies in the face of the reality. This absolutely defies the reality. I don't know how in the world a minister of the Crown in Saskatchewan could say that when the

reality is we've got fourth Vice-chief Lyle Whitefish who . . . Let me just remind members what his absolute closing paragraph in a letter that he wrote February 25th this year to the Hon. Minister of the Environment. The final paragraph is, and I quote because this is worth noting, Mr. Speaker:

I look forward to receiving the Crown's response, and working together with the Ministry of Environment to ensure that First Nations Treaty rights are protected, for present and future generations.

I can think of nothing that Vice-chief Whitefish could have written that would be any clearer than that. I look forward to working with the ministry. I look forward to working together for the protection of current and future generations. And yet that letter, written February 25th. And on March 30th again this year, same fourth Vice-chief Whitefish had to write, and I'm just going to look for the quote here:

Firstly, I must express serious concern that you did not provide due consideration and respect to my office by contacting me personally to discuss the decision prior to such a decision being made.

[10:30]

This was a decision, Mr. Speaker, to terminate an agreement, an agreement that had been in place for 16 years, an agreement that had been put in place between the Government of Saskatchewan and partnering with the First Nations respecting environment. There was a unilateral termination done by the Ministry of Environment that ended a 16-year relationship that had much promise, that had done some very good work, Mr. Speaker, and that needs to do some more extremely good work in the future.

Absolutely there is no way that we can proceed without a partnership, without enjoying the confidence of having our First Nations, the FSIN on board, the First Nations chiefs, and the people that they properly represent. They have to be on board, Mr. Speaker. And how do you get somebody on board? You talk to them. You exchange letters. Vice-chief Whitefish has exchanged two very well-written letters; I thought both of them, in the face of the cold shoulder they're getting from the Sask Party, in the face of that, I thought very generous in tone.

Mr. Speaker, I'm not sure I could have been as generous in tone if the Sask Party unilaterally ended a 16-year consultative relationship, just unilaterally yanked that relationship out and said, it's over; we're done. I'm not sure I could be as generous. And I'm sure not trying to second-guess Chief Whitefish. I'm actually complimenting him on his generosity and his clarity, his clear desire, his clear desire, Mr. Speaker, when he says:

I look forward to receiving the Crown's response, and working together with the Ministry of Environment to ensure that First Nations Treaty rights are protected, for present and future generations.

That's his job. That's what he's elected to do. And you note the words, together. Not it's my way or the highway, not like the Sask Party government, not like the Ministry of Environment, Mr. Speaker, who clearly says not only is it my way or the

highway, they said take a hike. Don't even care if it's on a highway, just take a hike. Go away and don't come back. Go away. We'll call you, they say. But we'll call you when the Sask Party government is darn good and ready.

Well what a disgraceful shame it is. And it's just small wonder, Mr. Speaker, why there is concern around environmental Bills. We have a Sask Party government that says, we're the champions of environment. At least that's what they were saying in 2007 in the lead-up to the election. They were saying trust us, we have the environment in mind. Now they're saying, we're doing consultations around *The Environmental Assessment Amendment Act*. They say they've done extensive consultation.

Vice-chief Lyle Whitefish who, it's in his jurisdiction to be doing, being part of this consultation, has reached out and said, I want to be part of this. We want to discuss it. We need to be certain that we're not unduly stopping progress, but we need to be sure that some treaty rights are honoured. We need to be sure that there is some guarantees for the present and into the future. We're not prepared to unilaterally give up. That's what Vice-chief Whitefish is saying, and I think he's very wise in that.

Mr. Speaker, we've got the opportunity, the government has an opportunity to do the right thing when it comes to Bill 122, *The Environmental Assessment Amendment Act*. The Act has stood the test for 30 years. It has stood the test of time for 30 years. The environment deserves better than what's being proposed here. The people of Saskatchewan clearly deserve better than what's being proposed in this legislation. The Federation of Saskatchewan Indian Nations deserve much better than the action that they're getting from the Sask Party government and the Ministry of Environment. They deserve much, much better.

Mr. Speaker, we need the government to listen. We need the government to do what they've said, what the minister said had happened in her first reading speech where the minister says, and I quote, "Mr. Speaker, in closing, extensive consultations have occurred with industry and stakeholders, and we are acting on their key recommendations." And yet all the information we have says that's just not so. Just not so. That's not the reality. And I thought, I always thought, sir, that in this legislature we have an obligation to say it as it is. Certainly say it as we see it. Certainly say it as we see it.

But how can there have been extensive consultations in the face of not one, but two letters that we have here. And generous letters, where Vice-chief Lyle Whitefish says, I look forward to receiving the Crown's response and working together with the Ministry of Environment. That's pretty darn generous words, working together. He doesn't say, gee we've had extensive consultations, I'm glad we were able to address some issues and we've got a few little outstanding issues. He said, it's time to start. Time to start. And in his letter, in one of the letters that Vice-chief Whitefish wrote he says, the Ministry has said there can be no substantive changes in legislation after the second reading speeches.

Well when is the time to consult? When interested parties say we're ready to consult? Or after the legislation is passed and then the Ministry of Environment, the Sask Party government

can say, too late, where were you some months ago when the legislation was being considered? Too late, they'll say. I can hear it now. Too late. We can't change a thing, they're going to say, despite the fact that the opposition is, I hate to use the word begging, but certainly pleading with the government to do the consultation that they promised. Do the consultation that the law clearly says they have to do with respect to First Nations. Do the consultation now, before you pass the legislation. Do the consultation that you said you had done. Not, not consultation that might take place somewhere in the future. Do what you said you'd already done. That's what we're saying. Vice-chief Whitefish is saying much the same. He's saying, willing to work with, want to work together, with the Ministry of Environment.

But, Mr. Speaker, once this Bill is passed. It's too late. What's the purpose of consulting other than to say, well little boy, little girl, little whatever, this is what the law says. Why? Because daddy says it's so. Why? Because I say it's so. Well that's not very satisfactory. It just doesn't work well. It doesn't sit well. It doesn't feel very democratic. I'm fortunate. I'm able to stand in my place in this Legislative Assembly and speak my piece, try and speak on behalf of some others, trying to get some common sense into the government.

But we've got not one, but three environmental Bills where the consultation hasn't taken place, where the consultation has not been in place. Because the letter from fourth Vice-chief Whitefish says, "Dear Minister Heppner, re impact on rights, regulatory review Bills 121, 122 [this Bill] and 123". So there's three Bills that the FSIN are interested in having that consultation take place in. They're asking for it. This is sort of the last appeal to the Sask Party government. This is sort of the last appeal we can do to the ministry to allow us to proceed as we must, Mr. Speaker, to allow the province of Saskatchewan and the Crown to proceed together with the FSIN — together. And they've expressed a desire to work together.

Mr. Speaker, there's not much more that I think worthy of saying on this Bill. This Act is 30 years old. It was put in place to protect the environment. It was arguably some of the first steps to protect the environment, to put in place an environmental assessment regime before there could be any development, either by business or commercial or residential. But any development that encroached on land had to go through an environmental assessment first. And that was about 30 years ago.

It's time for an update. Nobody will argue that it's not time to update the Act, but what I've tried to convey is that this Act is clearly designed to work to the benefit only of industry. Only of industry. It's designed to knock out any environmental considerations. It's designed to make it so that development can proceed. There's a point in this Bill where you can get a ministerial — I want to get it right — a minister's screening decision. A business can apply for a ministerial screening decision, and then away they go. Go ahead with the development.

Well, Mr. Speaker, that's not a step forward in the protection of the environment. It's a step backwards. It's a step backwards. Even if, even if I and the opposition believed that this Minister of Environment would protect the environment, we don't know

who's the next minister of Environment nor the one after. So even . . . It just matters not.

We need protections for the environment. We need clear rules. We need rules that have involved the people that it should involve, anyone that's involved in this decision. And clearly it should involve Vice-chief Lyle Whitefish and the FSIN, who have so clearly asked for the ability to consult and who . . . Earlier this year, Mr. Speaker, the Ministry of Environment tore up a 16-year agreement to look at environmental issues, tore up a 16-year agreement that's been in place since the early '90s.

And what a shame. At a time when we need to be proceeding together, we have a Sask Party government that says, no. No. We're the big brother, is what they're saying. We're the big brother, the big sister, and we'll tell you exactly how it's going to be. And that's what this legislation does. That's what this legislation does.

And I just, I just say again that what we've got now is a government that's determined to have members here from 8 in the morning till midnight, five days a week. That's okay. That's okay. I'm not complaining for me, not so much for me. I'm complaining for my constituents. I'm complaining for the FSIN that deserves so much better than this. I'm complaining for the people of Saskatchewan that deserve, Mr. Speaker, for us to have the ability to review legislation in a very meaningful manner and have the ability for the Sask Party government, instead of heckling, you're invited . . . [inaudible interjection] . . . Members, all members, Mr. Speaker, have the right to speak in second reading. And I would so welcome the Minister of Social Services comments on this legislation. I would so welcome her comments.

[10:45]

Because, Mr. Speaker, this is our opportunity to point out what's wrong with the Bill. And I've pointed out a number of things that is wrong with the Bill. It's my opportunity to point out what's wrong with the process. And frankly, there's more wrong with the process of passing Bill 121, 122, and 123 by the Sask Party, there's more wrong with the jamming of the process of passage of these Bills than there is with the legislation itself. And there's plenty wrong with the legislation.

We can do better. The job of the opposition is to point out where we can in fact do better. I've tried to do that to the best of my ability. Mr. Speaker, I hope, I hope that somewhere in the Ministry of Environment, someone is listening. I hope somewhere in the Ministry of Environment there's a call put through, an apology to Vice-chief Lyle Whitefish for ending a 16-year relationship that needs to continue. In one form or another, it absolutely needs to be in place if we're to have any progress.

This isn't just a case of the opposition versus the government. This is a case, it's a matter of law. It's a matter of the way that the duty to consult with First Nations is being upheld by the courts, and that is developing, and it seems to be strengthening in recent years. It's just a matter of doing good business. It's a matter of providing good government.

And it's a matter, Mr. Speaker, where Vice-chief Whitefish has

said, I'm looking forward to working together with the Ministry of Environment. He's not saying, go away; or gee, this is my bottom line; or gosh, we've got to have this. Here's our list of one, two, or six or whatever items we have to have. He said, I'm looking forward to working with the Ministry of Environment, together. And instead he gets brushed off, essentially slapped in the face, and a 16-year consultation program ended.

The people deserve better. There's much wrong with this and even more wrong with the process. The people of Saskatchewan deserve better. I hope that someone is listening.

Mr. Speaker, I'm going to take my place. I've registered my major concerns around this Bill. I hope, again I'll end by saying I hope that somebody in the ministry, maybe the Minister of Environment herself, will pick up the telephone and contact Vice-chief Lyle Whitefish, apologize for the appalling treatment that has been meted out and ask, how can we work together? How can we mend this relationship? How can we work together for the benefit of, not just First Nations people, but all Saskatchewan people, all Canadians? How can we make *The Environmental Assessment Amendment Act* a model that could be used in other jurisdictions, but at very minimum, a model of legislation that would work well here?

Mr. Speaker, I'm not at all pleased with this Act. I'm frustrated and I'm disgusted with the way it has proceeded so far. Thank you.

**The Acting Speaker (Mr. Elhard):** — I recognize the member from Saskatoon Meewasin.

**Mr. Quennell:** — Thank you very much, Mr. Speaker. I was listening to the remarks just made by the member from Regina Coronation Park on Bill 122 and some of the chatter going on in the Chamber, Mr. Speaker, which was, I think, at an acceptable level. But I clearly heard the government member for Rosthern-Shellbrook call on a number of occasions, while the member was speaking and referencing letters from the Federation of Saskatchewan Indian Nations, for the member from Regina Coronation Park to read the entire correspondence, Mr. Speaker. And I'm going to do so.

I don't know whether the member from Rosthern-Shellbrook doesn't know what's in the correspondence and believes that the member from Regina Coronation Park was making selective quotations that if read in context would not have carried the same impact and intent, and that the letters in full would have a different meaning than the quotations that the member from Regina Coronation Park was using, or whether the member from Rosthern-Shellbrook is not aware of the relationship that his government and particularly the Ministry of the Environment has developed with the Federation of Saskatchewan Indian Nations, or whether the member from Rosthern-Shellbrook is aware, Mr. Speaker, and is proud of that relationship, but does not intend to rise himself and enter this correspondence into the record.

But, Mr. Speaker, both these letters, the letter of February 25, 2010, and even the letter of March 30, 2010 are on point with the legislation. And so I am going to take up the member's invitation, the member from Rosthern-Shellbrook, take up his



invitation and read both of these letters into the record, Mr. Speaker. I intend not to make any comment on the letters. I think the letters speak for themselves.

First of all, the letter February 25, 2010 to the Hon. Nancy Heppner, Minister of Environment.

Dear Minister Heppner,

Re: Impact on Rights — Regulatory Review Bills 121, 122, and 123.

The Federation of Saskatchewan Indian Nations has identified a number of questions and concerns with regards to the “Results-Based” regulatory review, and Bills 121, 122, and 123. Please see the attached submission outlining the concern about the impact of these Bills to First Nations rights.

Given that the Ministry of Environment has indicated to the FSIN that no substantive changes can be made to the Bills after second reading, without having the Bills repealed, we expect that the Crown will seriously consider and substantively address the concerns outlined in our submission prior to second reading of the Bill 121, 122, and 123, so that measures to accommodate our concerns about the impact to our rights can be incorporated into the Bills.

The law developed in the last several years makes it clear that meaningful consultation must take place on procedural and substantive issues related to the conduct which may affect First Nations rights, inclusive of the development of regulatory regimes. First Nations have dedicated the FSIN to work with the Ministry of the Environment to develop a mutually-agreeable and comprehensively funded consultation process with respect to the regulatory review.

Minister Heppner, while I have not received a response from you with respect to my previous request for a meeting to move forward with such consultation process, I repeat this request today.

I look forward to receiving the Crown’s response, and working together with the Ministry of the Environment to ensure that First Nations Treaty rights are protected, for present and future generations.

Yours truly,

Federation of Saskatchewan Indian Nations,

Lyle Whitefish, fourth Vice Chief.

Well, Mr. Speaker, the chief and the FSIN did receive a response, and the response was a cancellation of the agreement between the FSIN and the Ministry of the Environment, leading to the second correspondence that the government member from Shellbrook Rosthern wants read in its entirety into record:

March 30th, 2010

Nancy Heppner, Ministry of the Environment

Dear Ms. Heppner,

This is in response to the telephone conversation I had with Elizabeth Quarshie, Deputy Minister of Environment on March 24th, 2010. On this date Ms. Quarshie advised me that the Ministry of Environment would be terminating funding to the Federation of Saskatchewan Indian Nations under the FSIN-Ministry of the Environment Partnership Agreement that was entered into for the 2009-2010 fiscal year.

Firstly, I must express serious concern that you did not provide due consideration and respect to my office by contacting me personally to discuss this decision prior to such decision being made.

Secondly, I am extremely disappointed with your actions as a Minister of the provincial Crown particularly in breeching the terms within our partnership agreement. For your information, pursuant to section 6 of the partnership agreement, it provides that:

6.1 This agreement may be terminated on 60 days written notice to the other party with or without cause.

As you can surely appreciate, such above-noted telephone conversation took me by complete surprise. The decision by the Ministry of Environment to terminate funding essentially terminates our agreement. At no time have either you, or representatives of the Ministry, indicated that any major decisions regarding our agreement were being contemplated. As such, I would have expected your office to respect our long standing relationship by the very least, engaging the FSIN in discussions.

For your enlightenment, in 1994, the FSIN and Saskatchewan Environment and Resource Management entered into a protocol agreement for the purpose of fostering and establishing a co-operative working relationship between First Nations in Saskatchewan and the provincial Crown. This included engaging in co-operative work on matters respecting the land, environment and the management of wildlife resources. Since then our office moved forward by establishing the Bi-lateral task force that provided a forum for discussion between First Nations and the Ministry on matters of mutual concern. Furthermore, the protocol agreement promoted proactive approaches between First Nations and your ministry towards resolving issues before they became problematic.

The telephone call on March 24th, 2010, advising that your Ministry will no longer provide funding illustrates insensitivity and lack of appreciation of First Nations people in Saskatchewan. We see it as a clear indication that the Ministry of Environment has no regard for the Inherent and Treaty rights of First Nations people in Saskatchewan and that First Nations people in Saskatchewan are to be further excluded from participating in the protection of the environment, and benefiting from the economic growth of the province.

This is made evident through the recent correspondence between our offices whereby the FSIN has been asserting a great deal of involvement of First Nations in the Ministry's current results-based regulatory review of the provincial Crown's environmental legislative framework. The responses from your Ministry, since you have taken office, have been dismissive and have argued for a reduced role of First Nations in the government's consultation processes.

The First Nations leadership in Saskatchewan are fully aware that the Ministry's position and approach on the duty to consult and accommodate First Nations is not supported by the legal principles, as pronounced by the courts. The message you are sending to First Nations leadership is that the Ministry would prefer an adversarial approach on dealing with matters between First Nations and the provincial Crown.

The FSIN will continue to support First Nations in Saskatchewan to ensure the ministry respects the legal and constitutional obligations as it relates to the duty to consult and accommodate First Nations, and that any proposed legislative changes on provincial environmental laws will be resisted until you consult with and accommodate, if necessary, the First Nations regarding their Inherent and Treaty rights. Furthermore, the FSIN will ensure that all industry and resource development proponents in Saskatchewan will be made aware that the issues regarding the Inherent and Treaty rights of First Nations people to the land are still outstanding and that your government has failed to seek a resolution to these matters.

The FSIN remains committed to the promotion, protection and implementation of the Inherent and Treaty rights of First Nations in Saskatchewan and to the protection and promotion of a healthy environment so that First Nations people may continue to practice their Treaty right to hunt, fish, trap and gather on lands and waters in Saskatchewan.

My previous experience in working with provincial Ministers and Ministries has been very different than what has occurred in this situation. I am therefore dismayed with your Ministry's actions, which brings into question whether the First Nations can trust the Ministry of Environment to live up to its commitments. This is illustrated in the unilateral action to terminate a sixteen (16) year relationship.

It is a further indication that . . . [the] ministry does not value partnerships with First Nations people. I believe that the FSIN-Environment partnership was on the right path and together, we could have worked around these funding hurdles.

Sincerely,  
Federation of Saskatchewan Indian Nations

Lyle Whitefish  
Office of the Fourth Vice Chief

Now, Mr. Speaker, it was a government member from Rosthern-Shellbrook who called for the entire correspondence to be read into the record, and I said that I wouldn't comment upon that correspondence, that it spoke for itself. But I would only state through you, Mr. Speaker, to the member from Rosthern-Shellbrook that one should always be careful of what one asks for . . .

**An Hon. Member:** — You just might get it.

**Mr. Quennell:** — You just might get it, Mr. Speaker.

I was going to speak primarily on the issue of assessment, risk assessment in contrast to risk management, Mr. Speaker, and perhaps I will comment on that briefly. It's an area that's, I think, easily confused, and I don't pretend that I don't confuse it on occasion, Mr. Speaker. But we have a number of environmental Bills before the House, one concerning environmental management and protection — or at least that's its title — another in environmental assessment. Or at least, again, that's its title, and that's the Bill that I am immediately speaking to.

Risk assessment and risk management are two very different things, and risk assessment really involves, simply put, an assessment of the probability of an occurrence and the costs of the occurrence if it was to take place. So when you're assessing risk, you're trying to determine how likely it is that an occurrence will take place and how harmful it would be if that occurrence took place.

[11:00]

And there are obviously different combinations. There may be some events that are very unlikely and if they did occur, not very harmful, Mr. Speaker. And in assessing risk, those risks would be considered to be relatively of less concern than the other possibilities, one of which is a risk that might be highly probable in occurring because it's a risk that is undertaken in an inherently dangerous activity. And if the risk, if the occurrence took place, it would be extremely harmful, perhaps in an occupational health and safety situation, fatal, Mr. Speaker. Or even in an environmental situation, perhaps fatal, and fatal even to human beings, Mr. Speaker. And so risks that are assessed as being highly probable and also highly harmful would be at the other end.

And of course there would be also risks that would be quite harmful, of occurrences quite harmful if they occurred, but are improbable. And of course then there are probable occurrences, or probable risks of occurrences that aren't necessarily so harmful.

So we are primarily concerned in making risk assessments, Mr. Speaker, primarily concerned with occurrences that if they occur are harmful, and particularly concerned with occurrences that are highly probable, Mr. Speaker. So in both occupational health and safety for example and in environmental assessment, although we should be concerned about all harm, we want to be concerned mostly about great harm so that we manage our resources properly. And we want to be concerned specifically about the risk of great harm that is more probable and more likely than other situations where the risk might be less

probable but still possible, Mr. Speaker.

This is to be differentiated from risk management which comes, I think, at the second stage. Once the assessments are made of both the probability and the risk of harm — the quantity of harm, the quality of harm that could take place — then those risks need to be managed. And more resources and attention are brought to those risks that are more likely and more dangerous than to those risks of occurrences that are less likely and less dangerous, or just less dangerous even if more likely, Mr. Speaker. And that's the important role of assessment, is to decide where to place your management resources, Mr. Speaker.

I would argue that with the ministry's move towards what they call results-oriented regulatory review, that it might be understandable that you wish to move to the private sector the management of risk, Mr. Speaker. They're on the ground, and they may not bear the greatest cost of risk, Mr. Speaker. The greatest cost might be to the environment. The greatest costs might be to the public. But they bear the cost of the penalties that are set out in this legislation, the environmental protection legislation, the environmental management legislation. They bear the cost of those penalties, and they have therefore that incentive at least to manage the risk, and arguably greater opportunity to manage the risk.

To a certain extent these Bills represent a figurative throwing up of the hands of the Ministry of the Environment saying, we do not have the resources, we argue. That's the defence for this legislation. We do not have the resources to manage the environment, and we have to allow developers to take a major role in managing those risks.

But I would still argue that there is . . . Even if one takes that approach, that the assessment of risk, the assessment of dangers to the public and to the environment — which is a public trust, not a private trust of any developer — the assessment of risk is for the public and for the public's government to play.

And I have a greater concern, not to suggest that I have no concern about the environmental management legislation. I do, Mr. Speaker. But I have greater concern about the farming out of risk assessment by the government. And the concern is represented, if I had to give an example of how the concern arises, is highlighted perhaps by the creation of class assessment by this legislation, so that projects are not assessed based upon where they are and the specifics of that project and perhaps idiosyncrasies of that development in that specific environment within the province of Saskatchewan, but they're assessed on the basis that they are similar to other projects that may take place in other places and that really should've been assessed on a different basis because the risks are different. And perhaps, Mr. Speaker, if the developer is different — the industry is the same but the actual company engaged in the project is different — perhaps the probability of a dangerous occurrence may be different as well, Mr. Speaker.

But the Act sees not just the throwing up of hands as to the ministry's ability to manage the environment, but the ministry's ability to do individual assessments on individual projects and to have these class assessments. And if one proponent of a type of a project can persuade the government that the project is, the

risk in the project is properly managed, the assessment of the risk is properly done, the management that . . . the due diligence that the proponent will put in place to manage those risks are all appropriate, then it appears everybody else in the class can piggyback on that, whether it's appropriate or not in their particular situation with their particular project in their particular environment in the ecological niche in which they are operating, Mr. Speaker.

And that kind of highlights the concern that the opposition has, that certainly I have, I think my colleagues share, that the government doesn't necessary appreciate the public role in risk assessment in respect to the environment and doesn't necessarily understand the difference between risk assessment and risk management in dealing with the environment or probably in dealing with occupational health and safety. I mean I know the opposition has a number of members of the opposition including . . . I have a number of concerns about whether the government has the proper level of concern in that respect as well.

And the issue of class assessments, it does take us back to the lack of consultation that actually took place, the failure to consult with First Nations in respect to this legislation. The government would have held out, the minister held on the second reading, those consultations took place. The letters that the member from Rosthern-Shellbrook wanted me to read in full made it clear that that consultation did not take place, Mr. Speaker. If anything, the FSIN was met with their request for consultation on these Bills by a phone call — improper notice under the law, improper notice under the agreement, improper notice that the funding for the partnership agreement on the environment was being cancelled. That was the response to the FSIN's request for consultation on these Bills, was to have the partnership agreement effectively cancelled, and I would argue illegally cancelled because it wasn't cancelled pursuant to the terms of the agreement.

That was the response. That was the consultations in this case, Mr. Speaker. And I know members of the government would say when we get up and we talk about consultations, well you're wrong. We consulted. And there's no evidence on one side or the other for that in many cases, Mr. Speaker. And you can't prove a negative, except in this case there's a lot of evidence for the negative, Mr. Speaker. There's a lot of evidence that the consultations didn't take place.

And if they had taken place, Mr. Speaker, and they had been taken seriously, this issue of class assessments would have been addressed. It may have still been in the legislation, but I think that the government would have been better able to respond to why it still was there. Because to have a class assessment and then say that, well the entire class is now deemed to have consulted with First Nations even though the projects may take place on different traditional lands of different First Nations, and therefore it meets that requirement and that the development can now occur, is to I think miss the point on duty to consult, Mr. Speaker, as it's been established by the courts.

And I appreciate that since the Supreme Court has set out that duty certainly on governments, Mr. Speaker, that only five years have passed. But there have a number of decisions following that establishment of that duty by the courts. And this

government is fond of the slogan, Mr. Speaker — they were fond of it in opposition, and they are fond of it in government — that they would respect the duty to consult, Mr. Speaker. But that is all it is, is a slogan. And I think the fact that that's all it is, is a slogan, is evidenced both by the consultation on Bill 122 and the response of the government to the request for consultation on Bill 122.

And so, Mr. Speaker, those are some of our concerns in respect to this legislation. I appreciate that the government member's request, made to the opposition, to read the entire correspondence into the record. I think the correspondence from the FSIN on these Bills is relevant, highly relevant and very clarifying of the government's understanding, certainly in respect to environmental legislation, of their duties and responsibilities to the people who not only have a legal right to consultation, Mr. Speaker, but as Chief Whitefish points out, a specific and long-standing interest in a healthy environment. And again, I won't quote from the correspondence, having read the entire amount of it into the record, Mr. Speaker.

The chief was correct, I'm sure, when he said that the Ministry of the Environment said that there would be no substantive changes to these Bills after they receive second reading. The government, in its second reading speech, said their consultations had taken place. If they have not indeed taken place — and the correspondence suggests that they have not, Mr. Speaker — they will not take place now.

If this legislation would have been essentially the same after these concerns had been addressed by the Federation of Saskatchewan Indian Nations or anybody else, the government's holding out that they consulted. But it did not in fact consult. Because there very well could be correspondence of this nature that we have not seen, Mr. Speaker. Then it's too late, and we can't proceed with confidence that the legislation would have been the same if the government had behaved the way the minister held out in her second reading speech instead of the way that it appears the ministry actually conducted itself, according to the correspondence between the ministry and the Federation of Saskatchewan Indian Nations.

So that said, Mr. Speaker, I think other members may very well have comments about this legislation along similar lines and perhaps other concerns. I hope some government members are a little bit more aware of the relationship their government has established and built — if those are the right words — and particularly the Ministry of the Environment have built with the First Nations of the province of Saskatchewan.

**The Acting Speaker (Mr. Elhard):** — The question before the Assembly is the motion by the minister that Bill No. 122, *The Environmental Assessment Amendment Act, 2009* be now read a second time. Is it the pleasure of the Assembly to adopt the motion?

**Some Hon. Members:** — Agreed.

**The Acting Speaker (Mr. Elhard):** — Carried.

**Clerk:** — Second reading of this Bill.

[11:15]

**The Acting Speaker (Mr. Elhard):** — To which committee shall this Bill be referred?

**Hon. Mr. Harrison:** — I designate that Bill No. 122, *The Environmental Assessment Amendment Act, 2009* be referred to the Standing Committee on the Economy.

**The Acting Speaker (Mr. Elhard):** — This Bill stands referred to the Standing Committee on the Economy.

### Bill No. 123

[The Assembly resumed the adjourned debate on the proposed motion by the Hon. Ms. Heppner that **Bill No. 123 — *The Forest Resources Management Amendment Act, 2009*** be now read a second time.]

**The Acting Speaker (Mr. Elhard):** — I recognize the member from Regina Elphinstone-Centre.

**Mr. McCall:** — Thank you very much, Mr. Chair of Committees. It's good to participate in this debate today and to follow in the train of other of my colleagues on this side that have been putting the lie to the misrepresentations on the part of this government opposite in terms of what's happened around Bills 121, 122, and 123.

And as particularly regards Bill 123, Mr. Speaker, I would refer to December 2nd's second reading speech on the part of the Minister of the Environment, wherein she stated on behalf of that government in the introduction of Bill 123:

Mr. Deputy Speaker, these amendments have been developed following extensive discussions that include industry, both large and small; environmental groups; and forest professionals. These discussions revealed broad support for the general approach and for specific changes that we are proposing. We continue to work [and note this very carefully, Mr. Chair of Committees — “we continue to work”] with First Nation and Métis people to find meaningful approaches to incorporate their interests as we move forward on the results-based environmental regulatory system.

Taken as a whole, that paragraph would seem to indicate that there has been consultation that has taken place, that there are interests being incorporated, and that this piece of legislation along with its companion pieces would be the product of a thoroughgoing consultation process.

And again, I'm going to talk in my remarks today, Mr. Speaker, a bit about the process and a bit about the substance of the legislation. But certainly the impression that one would take from the minister's speech and from the remarks as I have related them here from *Hansard*, December 2nd, page 3931, is that everything was great and this is legislation that deserved to move forward.

But as we find out, and as we find out on many fronts when it comes to the actions of this government, Mr. Chair of Committees, things aren't quite as they seem. You can't take the word at face value when it comes to especially consultation on the part of this government.

So I would then refer folks to a letter from . . . that was copied out and that accompanied a fairly significant submission on the part of the Federation of Saskatchewan Indian Nations on regulatory review, Bills 121, 122, and 123, dated February 25th. And I know that other of my colleagues have touched upon this in their remarks, but I'd like to get this on the record as regards Bill 123 again, Mr. Chair of Committees:

The Federation of Saskatchewan Indian Nations has identified a number of questions and concerns with regards to the results-based regulatory review and Bills 121, 122, and 123. Please see the attached submission outlining the concern about the impact of these Bills to First Nations rights.

And I'll get into that submission as it relates to the Bill 123, Mr. Deputy Speaker, if I might add parenthetically. Continuing the quotes from the letter:

Given that the Minister of the Environment has indicated to the FSIN that no substantive changes can be made to the Bills after the second reading without having the Bills repealed, we expect that the Crown will seriously consider and substantively address the concerns outlined in our submission prior to second reading of the Bill 121, 122, and 123, so that measures to accommodate our concerns about the impact to our rights can be incorporated into the Bills.

The law developed in the last several years makes it clear that meaningful consultation must take place on procedural and substantive issues related to conduct which may affect First Nations rights inclusive of the development of regulatory regimes.

First Nations have directed the FSIN [and that's a very important thing to note, Mr. Speaker — "First Nations have directed the FSIN"] to work with the Ministry of the Environment to develop a mutually agreeable and comprehensively funded consultation process with respect to the regulatory review.

Minister Heppner, while I have not received a response from you with respect to my previous request for a meeting to move forward with such a consultation process, I repeat this request today.

So there you see, Mr. Speaker, that already they've been left hanging.

I look forward to receiving the Crown's response and working together with the Ministry of Environment to ensure that First Nations treaty rights are protected for present and future generations.

Yours truly,

Lyle Whitefish  
fourth Vice-Chief  
Federation of Saskatchewan Indian Nations

And it's copied to Premier Brad Wall, Minister Bill Hutchinson, and different Ministry of the Environment officials.

Now the thing that's interesting about that, Mr. Speaker, is that there was then another lag time in terms of response being made to the correspondence and part of the FSIN. And the next time that, of course, the FSIN hears from the ministry is the day of the budget. Now this leads us to wonder, is it the substance of the concerns that were being brought forward as opposed to the supposed mandate review that the Department of Environment had undertaken to find savings?

Or is it about, you know, they didn't agree with us on the changes being brought forward through legislation; they're being troublesome. So what we'll do is we'll tear up a protocol that's been in place for 16 years, which is meant for meaningful capacity on the part of First Nations to develop a perspective on environmental issues, land, and resource management.

And, of course, the next letter that we enter into this consideration of events concerns the call that was received by the Vice-chief Whitefish from the deputy minister — not from the minister, mind you, but from the deputy minister — to the vice-chief, saying that, well you know, it's not about the concerns that were raised around Bills 121, 122 and 123. It's not about that. What we're going to do in response is tear up a 16-year-old environmental protocol between the FSI [Federation of Saskatchewan Indians] and the province of Saskatchewan, you know, regardless of the fact that there's a 60-day notice clause in the protocol, which had been signed in good faith, and just last year by that minister opposite, Mr. Speaker.

There's a 60-day notice, written notice termination clause in it that was, you know, obviously ignored. It makes you wonder the value of even the signature when you get things down in black and white from that minister in terms of the good faith at work. Because if there was good faith in this protocol that's . . . even the termination clause is not being honoured in this case, Mr. Speaker, let alone the protocol itself.

So you see the \$282,000 that were attached to it, the capacity that that built on the part of FSI and the way that they backstopped the work of individual First Nations who of course were the treaty signatories in terms of making sure that they are able to provide a meaningful response to exercises undertaken under duty to consult and accommodate. Again, something that we've heard a lot about from members opposite in terms of the importance of that process over the years.

But when it gets down to the brass tacks of how it's responded to in this budget, and in terms of the actions of a very important minister in terms of the scheme of things around duty to consult, the Minister of the Environment, well they don't get a response to their request for information. What they do get instead is a long-standing agreement being torn up unilaterally without the proper notices outlined under the protocol. And, you know, let alone any sort of meaningful address to the concerns that have been raised.

So my colleague, the member from Saskatoon Meewasin, has entered this letter into the record so I'll not dwell on that any further, but what I do want to reference, Mr. Chair of Committees, is the concerns that were raised in the submission made by the FSI concerning Bills 121, 122, and particularly 123. And the part that I'd like to quote from is the introduction

to the submission that's accompanied the letter of February 25, and again it talks about the process and the difficulty that the FSIN and that the vice-chief and his officials have had in working with this Minister of the Environment.

The submission is many pages long, and again I'll refer to some things from the introduction that particularly touch on the way the consultation has been not discharged by that minister, not discharged by this government. And then I'll get into some specific questions that they have around the legislation itself as regards Bill 123 in this case.

This submissions is being made ... To quote from the submission:

Despite a lack of developing a meaningful consultation process with the First Nations and FSIN to comprehensively assess the impact of these Bills on our rights ...

And again, referring to 121, 122, 123:

The Ministry of the Environment has informed the FSIN that not only will the Bills not be repealed, but that no substantive changes can be made to the Bills unless they are repealed, and once the Bills are in second reading that leaves no opportunity for accommodation and defeating the purpose of consultation.

Again, that lays it out fairly clearly, Mr. Speaker. You proclaim consultation on the one hand, but provide no opportunity for meaningful consultation on the other. So what does that add up to? It means they're making a mockery of the consultation process. To return to their letter:

Nonetheless, it is necessary to raise the following common concerns which will impact all First Nations in Saskatchewan and to call upon the Crown to accommodate our concerns in the spirit of reconciliation.

The FSIN and First Nations in Saskatchewan are very concerned that Bills 121, 122, and 123 are being put forward into second reading without proper consultation with First Nations. The Province has a legal obligation to take into account First Nations' constitutionally-protected rights, including in land use and strategic-level planning processes such as the development of the "Results-Based" approach and the drafting of Bills 121, 122, and 123, which set the foundation for implementing the approach. As a result, consultation must occur before any of the Bills are in second reading; otherwise, there is no possibility of accommodation. As the court stated in *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, [2005]: "Consultation that excludes from the outset any form of accommodation would be meaningless." [That states it pretty pithily there, Mr. Speaker.] "The contemplated process is not simply one of giving the Mikisew an opportunity to blow off steam before the Minister proceeds to do what she intended to do all along."

And again that certainly rings true to the approach of that minister opposite, Mr. Speaker.

Moreover, the Supreme Court of Canada has stated that the honor of the Crown infuses every treaty, which gives rise to both procedural rights (e.g. consultation) as well as substantive rights, (e.g. hunting, fishing, and trapping rights). As such, conduct such as the regulatory review, conducted without consultation, constitutes a breach of First Nations procedural rights, quite apart from any substantive treaty obligations ... There is a need to ensure that the direct, indirect, and cumulative impacts of Bills 121, 122, and 123 are assessed on our ability to exercise both our procedural right to consultation and accommodation, and on our substantive rights, and First Nations must be given a meaningful opportunity to provide input into the environmental conditions and resources necessary for the exercise of those rights.

The FSIN and the First Nations of Saskatchewan agree that adequate resources need to be provided to First Nations in order to undertake research and hire advisers so that they can properly understand the impact of the move to a "Results-based" regime, and of Bills 121, 122, and 123, which are a culmination of strategic planning, and have the potential to adversely impact First Nations rights. To date, and of concern, is that there has been no comprehensively funded consultation process to ensure that First Nations are included in the regulatory review.

Rather than establishing a meaningful consultation process through negotiations with the FSIN and First Nations, the Ministry proceeded with ad-hoc information meetings with First Nations in early November, 2009 ...

Again, early November 2009. The legislation hits the floor in this Chamber December 2nd.

... which did not adequately discharge the Government of Saskatchewan's legal duty to consult. This is particularly so, given that at the time of the meetings, the Ministry was in possession of the FSIN's Proposal for First Nations involvement in the regulatory review, which was submitted at the Bi-Lateral Task Force meeting on August 27, 2009.

August 27th, Mr. Speaker, 2009. And again, the bilateral task force was the body that met pursuant to the protocol that those members opposite tore up unilaterally via a phone call on budget day.

[11:30]

At the time of the Ad-hoc meetings, the Ministry had not yet responded to the FSIN [had not responded] or to First Nations as to the direction of the consultation process in relation to the FSIN Proposal. Rather, the Ministry responded on November 17, [November 17, you know, two weeks before the legislation hits the floor here] by stating that Ministry officials are working with the FSIN to develop a consultation process for First Nations inclusion in the review, after the ad-hoc meetings had already occurred.

However, it was not until December 1, 2009, that the FSIN was informed by the Ministry, that not only had the

Bills been tabled on November 30, 2009, prior to the release of the Bills to First Nations, and prior to establishing a consultation procedure before the introduction of the Bills, as requested by [FSIN] Resolution # 1680; but, moreover, that the Ministry had determined unilaterally that it would conduct consultations, at which time a senior Ministry official stated to the FSIN that: “We haven’t designed the consultation approach specifically yet”. The FSIN was later informed that November 16, 2009, was the date the Ministry decided to consult rather than to agree to a comprehensively funded consultation process. As such, the Ad-hoc sessions in early November occurred prior to the Ministry even determining that it would be the entity facilitating consultations. This was at the same time the Ministry led First Nations to believe that it was in good faith negotiations with the FSIN on the development of a consultation process for First Nations inclusion in the review.

Again making a sham of the consultation process, Mr. Deputy Speaker.

“To date, the FSIN . . .” and this is as of February 25th and I don’t believe anything has changed since then, Mr. Deputy Speaker, except for the fact that of course the protocol was torn up unilaterally.

To date, the FSIN and First Nations have maintained that consultation is required with regard to the “Results-Based” regulatory review. Inclusive of the earliest point in time and during every step of the process, including: the decision to adopt the “Results-Based” review (stated at the Bi-Lateral Task Force meeting [on] August 27, 2009, when the FSIN proposal was submitted); during the development of the Bills and prior to their introduction into the Legislature (stated in Resolution # 1680 [of the FSIN Assembly]); and in terms of every subsequent step, including but not limited to the development of the Environmental Code.

However, the messages that First Nations have received from the Ministry of the Environment have been confusing at best, and do not uphold the Crown honor, at worst. Even though the Ministry of Environment admitted it had a duty to consult at the Bi-Lateral Task Force meeting on August 27, 2009, and solicited the FSIN Proposal for consultation with First Nations prior to that date, the later actions of the Ministry are contradictory.

After submission and rejection of the FSIN Proposal, and a subsequent meeting [was held] between Minister Heppner, Minister Hutchinson and Vice Chief Whitefish, on January 18, 2010, the Ministry committed to working together to develop a mutually-acceptable consultation process for First Nations. However, that evening, Ministry officials informed the FSIN that not only was the Ministry not going to seek a mutually-acceptable process, but moreover, that the Ministry had no duty to consult on the regulatory review and the Bills at all [at all]. Rather, the Ministry provided it would be only consulting with regards to site-specific impacts as they arose, and directly with First Nations.

Nonetheless, the position of the FSIN and First Nations in Saskatchewan has been, and continues to be, that consultation and accommodation is required in regard to the entire regulatory review process. Thus, despite the lack of commitment that the FSIN and First Nations have received from the Ministry of Environment, we feel that it is imperative to set out a number of preliminary concerns that we have identified. However, our analysis is by no means complete, given the lack of time, resources, and the lack of meetings between the Ministry, First Nations, and the FSIN in a meaningful consultation and accommodation process, which we have been attempting to establish since prior to August, 2009.

This submission shall in no way be taken to constitute consultation or accommodation, as there has been no meeting of the minds with regard to an acceptable process, which would provide the FSIN and First Nations with the necessary resources and capacity to fully identify our concerns regarding the impact of Bills on First Nations rights. Rather, we have requested, and respectfully request again, that Minister Heppner meet with the FSIN to establish a comprehensive consultation process for First Nations involvement in the regulatory review, prior to the second reading of Bills 121, 122 and 123.

And again, to recap how that turned out, Mr. Chair of Committees, that respectful request was met with, you know, confusion, with misrepresentation, and with ultimately valid concerns being brought forward to be responded to by tearing up the environmental protocol between the FSI and the province of Saskatchewan.

And again it’s interesting to . . . I’m going to veer away from quoting the letter at further length at this point, Mr. Speaker. But it’s interesting to go back to look at the meeting that was held on January 18th, 2010. And again, to establish a bit of the timeline here, Mr. Speaker, there’s a meeting of the bilateral task force at the end of August. These concerns had been brewing for some time. There’s some undertakings made at that time to work on an agreed upon process.

There are more meetings that take place in November, but these of course are taking place against the backdrop of decisions that have already been made on the part of the province of Saskatchewan and the Ministry of Environment and, in terms of the legislation, then being brought forward without the consultation process being agreed upon. So again they’ll claim consultation, Mr. Chair of Committees, but again what is practised is something very different.

And it’s very hard to take the members opposite and particularly that Minister of the Environment at her word, be it in the black and white as represented by signing off on a protocol that was arbitrarily and unilaterally terminated on budget day by a phone call in contravention of the termination clause of their own agreement that they had signed, or what the minister has to say in a second reading speech in terms of the work that’s gone on in terms of the bringing forward of legislation.

So and further to that, we have a meeting on January 18th, 2010

wherein it would seem that there's a habit perhaps of the minister saying one thing in the meeting and then officials being delegated to do the dirty work after the meeting. So they'll nod and smile and agree and bobble-head their way through a meeting, Mr. Chair of Committees. But then, come the time to actually implement the decision or to live up to their word, then it's off to the officials to deliver the bad news that, well that isn't what the minister really meant.

And again, Mr. Speaker, that's an amazing way to do business — and I say amazing with, you know, no end of irony. Because there's only so long a government can do business like that before it catches up with them, Mr. Speaker. And I think that the bill is coming due on these people very, very soon.

I want to touch upon the specific questions that were raised in the submission from the FSIN. And the minister opposite has this document, has had it for months and hasn't seen fit to respond to it yet, Mr. Chair of Committees. But we'll get these questions on the record here in the Assembly. And again there are a number of questions that relate to Bills 121 and 122. But as we're talking about Bill 123, I'll limit my questions or quoting from the questions that they raise in their submission to Bill 123 at this time.

So from part III of their submission, "The Impact of Bill No. 123, An Act to amend *The Forest Resources Management Act* and to make related amendments to *The Parks Act*, on First Nations Rights and The Need to Meaningfully Consult and Accommodate First Nations Concerns."

The first section is exercise of rights. Question 30:

30. How will the proposed amendments to *The Forest Resources Management Act* affect, impact or infringe on First Nations treaty rights? Please provide a detailed description of your process and findings.

31. Does Saskatchewan dispute whether or not First Nations have existing, constitutionally-protected rights with regard to forest resources and management?

32. Has Saskatchewan conducted a preliminary assessment of the strength of claim of First Nations' rights throughout parts of the First Nations traditional lands where forestry development is contemplated?

33. Does Saskatchewan agree that one of the purposes of planning and forest management and land use plans is to ensure the meaningful exercise of First Nations constitutionally-protected rights now and into the future?

34. Is Saskatchewan prepared to work cooperatively with First Nations to develop forest management plans and integrated forest plans, which would identify traditionally used species by First Nations, assess the baseline levels for those resources and set benchmarks for the protection of those resources to preserve our ability to exercise our rights? In our view, such plans would provide a meaningful and sound foundation for the assessment of impacts, mitigation and reclamation strategies in respect of decision making and the management of resources in Saskatchewan as it relates to First Nations specific

interests and concerns.

35. What steps has Saskatchewan taken to determine the extent to which approval of any forestry projects have already been approved and/or applied for within First Nations traditional lands, which would deprive those First Nations of a meaningful opportunity to exercise their rights?

36. Is Saskatchewan of the view that there will be or already is increased human and financial hardship and expense to First Nation members to exercise their rights as a result of forestry development within First Nations traditional lands?

37. Has Saskatchewan assessed what lands and associated forestry, vegetative, water, air quality, access, First Nations require to carry out their constitutionally-protected rights now and into the future? If so, what specific information did you assess?

38. Have you identified any lands within the First Nations traditional lands that will permit First Nations to exercise their rights now and into the future? If no, why not? If yes, what criteria did you use to make this determination and did you consider what use other First Nations, Métis and other persons are making of these areas and what their future needs are? Did you consider the direct and cumulative impact of forestry activities within First Nation traditional lands when making that assessment? Are you prepared to consult with First Nations to protect lands that the First Nation requires to carry out their rights, prior to any further approvals of licenses and plans, based on the information requested above, and if not, why not?

39. Do you have a record of any consultation between Saskatchewan and First Nations related to the development of Bill 123? Please provide copies of the existing consultation record.

And again, if I might add parenthetically, Mr. Speaker, you know, is this such an unreasonable question? Are these unreasonable questions that couldn't be answered by the ministry that has a vast number of civil servants and has had a proclaimed interest in working co-operatively and productively with First Nations and Métis people in this province? These aren't questions that are, you know, it's not like they have to go to the moon to get them, and in some of these cases, a simple yes or no will do.

But is it that they don't want to get on the record with what their policy actually is and they want to keep things as a moving target? It's hard to figure what the actual intent is of the government in regards to stonewalling on some very legitimate requests for information.

To return to the submission, Mr. Deputy Speaker:

Section 2 amended

40. With regards to section 2(1)(o) and the removal of the reference to licensing requirements for processing facilities. First Nations are concerned that removing a



definite trigger for consultation and accommodation (i.e., a licence) will adversely affect First Nations ability to be included in decision-making processes and identifying the impact of activity on their constitutionally-protected rights.

41. With regard to the proposed section 3(1)(b)(a.11), how does Saskatchewan and/or the minister propose to consult with First Nations regarding the activities of a licensee and approved plans? In the context of audits? [In what context.]

42. With regard to proposed section 3(1)(f), how might the re-definition of 'forest land' to exclude Crown mineral and Crown mineral lands impact the right of First Nations to inclusion in management and planning with regard to minerals which were not surrendered at Treaty or in the Treaty making process.

43. With regard to the proposed section 3(1)(9M)(x2), how did Saskatchewan involve First Nations in developing the definition of who constitutes a 'qualified person', given that the decision of qualified persons have the potential to adversely impact First Nations rights?

#### Section 6 amended

44. Generally, the amendments to section 6 and the powers of the Minister are significantly reduced in planning and approvals. The narrowing of the authority for the minister to make decisions is due to increased discretion being given to industry, or qualified persons, to conduct its business. Industry has no duty to consult First Nations. It is a concern that there is a move away from transparency and towards industry discretion, which will come at the expense of the long-term sustainability of section 35 constitutionally protected rights.

45. With regard to proposed section 6(b)(ii) and (iii), what steps has Saskatchewan taken to determine the extent to which changing the definition of 'Crown resource land' and substituting it with 'land within the provincial forest' may impact First Nations rights to minerals, resources, revenue sharing; and to ensure that First Nations benefit from inclusion in planning regarding the lands and resources in all First Nations traditional territories?

[11:45]

46. With regard to proposed section 6(b)(iv), how will Saskatchewan include First Nations in any advisory committee established pursuant to subsection 11(1)?

47. How will Saskatchewan work with First Nations to determine an appropriate procedure or method for appointing members to such committees? For assigning duties? For developing procedures for the operation of such committee?

48. How will such advisory committees be integrated or included into any Haida consultation with First Nations? [And for course referring to the Haida decision of the Supreme Court, Mr. Deputy Speaker.]

49. How will Saskatchewan communicate with First Nations, the discussions and recommendations arising from the committee?

50. How will the advice of the advisory committee be coordinated and/or weighed against the input of First Nations obtained through Haida consultation with respect to matters under *The Forest Resources Management Act*?

51. What powers and responsibilities will the advisory committee have under the Act?

52. With regard to the proposed section 6(c)(2), how will Saskatchewan and/or the Minister consult with First Nations with regard to the development, adoption, and implementation of the code?

53. What process or procedure will be used in such consultation?

54. How will Saskatchewan ensure that First Nations have the adequate time, resources, and capacity to participate in the development, review, and adoption of the code?

55. What measures will Saskatchewan provide with regard to disputes arising with regard to the development of the code?

56. What role will First Nations have in jointly drafting the code, and monitoring enforcement should the code proceed to be implemented?

57. With regard to the proposed section 6(c)(3), how does Saskatchewan and/or the Minister propose to effectively communicate with First Nations, in their language and in an understandable format, the notice of any standards or requirements that are developed or established pursuant to clause (1)(1.3) and that are set out in the code, and of any amendments to those standards and requirements?

58. How does Saskatchewan and/or the minister propose to consult with and accommodate First Nations concerns, comments, and feedback into any proposed amendments to the standards and requirements?

59. With regards to the proposed section 6(c)(4), the Minister is given the authority to approve "criteria, terms, conditions, or requirements submitted by that person as an alternative to those set out in the code". How does Saskatchewan and/or the Minister propose to consult with First Nations regarding alternate criteria, terms, conditions, or requirements which are proposed to be accepted rather than those set out in the code?

60. With regard to proposed section 6(c)(4)(a), the decision of the Minister to approve such criteria, terms, conditions, or requirements is conduct which may adversely affect First Nations. How will Saskatchewan and/or the Minister consult with First Nations to ensure that First Nations input is received and demonstrably integrated into the criteria, in order to verify, from a First Nations perspective, that such alternative criteria will "provide an equivalent or better level of protection" to

forest products and Crown lands?

61. If First Nations are of the perspective that the alternative criteria will not, “provide an equivalent or better level of protection” to forest products and Crown lands, how does Saskatchewan and/or the Minister propose to incorporate or address First Nations concerns in the decision on whether to utilize the alternative criteria as opposed to the code?

62. With regard to the proposed section 6(c)(4)(b), the minister may make a decision if he/she is satisfied that “it is in the public interest to do so.” How does Saskatchewan and/or the Minister propose to satisfy its constitutional duty to consult with and accommodate First Nations, against the power to make decisions in the “public interest” which may not adequately address and/or protect First Nations constitutionally-protected rights and interests?

63. How does Saskatchewan propose to consult with First Nations to address the concern that, in the proposed amendment, while the minister is provided discretion to make decisions in the public interest, there is no mention that the minister is required to consult with and accommodate First Nations prior to making such determination?

64. Does Saskatchewan and/or the Minister propose to consult with and accommodate First Nations prior to making such a determination? If so, what is the process? What are the timelines?

65. What are the levels of opportunity for First Nations to be involved in determining whether or not the alternative criteria is in the public interest?

66. Given that in section 6(c)(5), persons may comply with the alternative criteria approved by the minister pursuant to section 6(c)(4), how will Saskatchewan ensure that compliance is achieved in a way that upholds Crown honour, and appropriately and meaningfully addresses and accommodates outstanding First Nations concerns with regard to alternate criteria and the impact upon Treaty rights?

Section 11 amended

67. With regard to section 11(1), does the minister propose to establish a First Nations advisory committee to advise the minister on Aboriginal consultation with regard to *The Forest Resources Management Act*?

68. If so, how will the input and the advice be considered?

69. Will the advisory committee have decision-making powers?

70. How will the advice from the advisory committee be considered and/or weighed in relation to any other non-First Nation advisory committee?

71. Will non-First Nation advisory committees have

decision-making powers or the ability to make recommendations or decisions related to Aboriginal consultation?

72. How will the First Nations advisory committee, if established, weigh against the requirements of the licensee with regards to Aboriginal consultation and forest management plans?

73. What remedies will be available with regard to disputes arising under *The Forest Resources Management Act* and how will the advisory committees function in terms of dispute resolution?

74. How may the requirement that the advisory committees report to the Minister within the time that the Minister may direct adversely impact upon the ability of First Nations in advisory committee to fully and comprehensively identify rights, concerns, and interests requiring further consultation and accommodation?

Section 12 amended

75. With regard to section 12, has Saskatchewan conducted an assessment on the impact upon First Nations rights of withdrawing lands from the provincial forest, and how doing so may affect First Nations Treaty rights to hunt, trap, and gather, and to live sustainably off of the land and make a livelihood?

76. Given that withdrawing land from the provincial forest will not subject it to the same level of assessment and regulation with regard to *The Forest Resources Management Act*, how will such land be planned for and managed?

77. How will First Nations be consulted with regard to the short- and long-term land use planning, and management decisions on such lands, and the impact of conduct upon these lands or which may impact these lands on First Nations rights?

Section 13 and 14 amended

78. There is a concern that the mandatory requirement for an integrated forest land use plan is being changed to an enabling provision, removing the obligation for the minister to revise the plan when such a plan is being revised. It is our concern that it is an attempt of Saskatchewan and/or the Minister to reduce its duty to consult and accommodate First Nations by leaving power with industry or qualified persons, even though revisions of the plan will have the same effect on both the environment and First Nations rights, albeit without First Nations inclusion.

79. With regard to section 13, how does the minister plan to consult with and accommodate First Nations in his/her decision to divide a provincial forest into one or more areas and designate those areas as planning areas? Given that forest management and planning has the potential to both directly and indirectly impact First Nations Treaty rights, how will the division of the forest potentially

fragment habitat and impact the environment in which First Nations Treaty rights are exercised, thereby potentially impacting First Nations' preferred means of exercising their treaty rights?

80. With regards to section 14, how does the minister plan to consult with and accommodate First Nations with regards to integrated forest land use plans? What are the factors which would create incentive for the minister to require an integrated plan as opposed to another kind of forest management plan?

81. How will the minister coordinate policies, programs, and activities of Saskatchewan with policies, programs, and activities of First Nations?

82. How does Saskatchewan and/or the minister propose to regulate existing and potential use of land within the planning area in accordance with its obligations to consult with and accommodate First Nations rights, interests, and concerns?

Section 16 amended

83. What is the impact of Saskatchewan eliminating the public review process [eliminating the public review process], and how does this impact the information which will be available to First Nations with regard to First Nations rights to be consulted and accommodated?

Section 17 amended

84. It is concerning that Saskatchewan is moving away from licence requirements to promoting best practices, which are not enforceable and do not provide any incentive for environmental protection or the protection of First Nations rights.

85. Section 17(3) permitting a person to engage in subsistence gathering without a licence may adversely affect First Nations rights to gather.

86. How does Saskatchewan and/or the minister propose to consult with First Nations regarding this proposed amendment?

87. What are the methods and steps being proposed by Saskatchewan to alleviate the concern about the impact of this section on the environment and the Treaty right to gather?

88. What type of monitoring program will be in place to ensure that permitting people to engage in subsistence gathering without a licence will not create cumulative and adverse effects to First Nations and the Treaty right to gather?

89. How does Saskatchewan propose to consult with First Nations regarding the definition in section 17(4) of subsistence gathering and who is entitled to gather and what are they entitled to gather?

90. How will this definition complement or derogate from

a First Nations perspective in gathering and on the treaty right to gather?

91. How can this section be redefined so as to ensure that it protects, promotes, and respects First Nations indigenous knowledge and First Nations Treaty rights to gather?

92. What elders did Saskatchewan and/or the minister speak with in drafting and developing this proposed section of the Act? [Pretty good question, Mr. Speaker.]

93. Section 17(5) permits persons to gather without a licence, certain berries, fruits, etc., What Indigenous knowledge did Saskatchewan integrate into developing this proposed section of the Act?

94. How does Saskatchewan propose to consult with First Nations with regard to harvesting rights contained in section 17 to ensure the First Nations Treaty right to gather is protected and accommodated in the context of potentially scarce resources, development, and changing habitat?

95. Section 17.1 permits the minister to allow persons to harvest timber without a licence when, in the opinion of that minister, the forest land is suitable for certain purposes.

96. What Indigenous knowledge will be informing the opinion of the minister?

97. How does Saskatchewan propose to incorporate Indigenous knowledge and its duty to consult and accommodate First Nations in the minister's decision-making power pursuant to section 17.1?

98. If there is no licence, pursuant to section 17.1, how can the decision be changed or modified if the environmental conditions change? What monitoring will be in effect to ensure that the forest land remains suitable for clearing the timber? How is indigenous knowledge and consultation to be incorporated in these aspects?

Section 18.2

99. It is concerning that the requirement for a processing facility to be licensed is repealed. given the concern with regard to the relationship between licensing and consultation with First Nations.

100. With regards to section 18.2 and processing facilities, how will the records maintained be available to First Nations in order to ensure that First Nations have continuous access to full, credible, and reliable information from which to determine the impact upon rights?

Section 19.1

101. There is potential for the code to not adequately outline consultation and accommodation requirements with First Nations. Given that section 19.1 states that the

licensees shall comply with the code, this may adversely affect First Nations rights if the code does not adequately protect First Nations rights?

102. How does Saskatchewan handle . . .

**The Speaker:** — Order. According to order, this House stands recessed until 1:30 p.m.

[The Assembly recessed until 13:30.]

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