LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
First Session — Thirteenth Legislature
32nd Day

Friday, March 29, 1957

The House met at 2.30 o'clock p.m.
On the Orders of the Day:

ROYAL COMMISSION TO INVESTIGATE MINERAL DEALS

Mr. R.A. McCarthy (Cannington): — Mr. Speaker, before the Orders of the Day are proceeded with, I would like to make reference to a report in 'The Western Producer' of March 28, under a Regina dateline, which says:

> "The Saskatchewan Government has approved in principle the request of the Mineral Owners' Protective Association for the appointment of a Royal Commission to investigate the mineral deals and operations of Prudential Trust Company, Limited.
>
> "A three-man commission, likely to be headed by a judge, is to be named as soon as the points of reference are laid down."

I wonder if I could ask the Government when we can expect that Commission, and I suggest to them that I hope the terms of reference, when it is appointed, will be broad enough to take in all the companies in the south-east where there is suspicion of misrepresentation.

Premier Douglas: — Mr. Speaker, the press report is right in saying that the Government has had representations made to it to appoint a Royal Commission to look into certain transactions for the purchase or leasing of mineral rights in the south-eastern part of the province.

The Government has under consideration both the matter of the terms of reference and the matter of the personnel who would make up such a Royal Commission. As soon as those two matters have been finalized the Attorney General or myself, will in all probability be making an announcement to the House regarding it.

With respect to the matter of the terms of reference being broadened I would like to point out two things. One is that the request of the Mineral Owners' Protective Association had to do with only the deals of this particular company. Secondly, if it is necessary to broaden the terms of reference at a later date, it can always be done if

some of the investigations indicate that the Government would be warranted in broadening the terms of reference. I think the members of the House will agree that to appoint any Commission with blanket powers to deal with agreements that have been properly and legally and validly entered into would only be to cause a great deal of unrest, and a great many people who have agreements properly entered into would be caused a good deal of concern and a sense of insecurity. So, therefore, we are anxious to deal only those where there are indications that some type of investigation is warranted, or where some measure of the alleged fraud is in evidence.

Just as soon as the matter of the personnel has been agreed upon and the terms of reference stated, an announcement will certainly be made to the House.

DISTRIBUTION OF PAMPHLET

Hon. C.M. Fines (Provincial Treasurer): — Mr. Speaker, I would like to distribute to members copies of a pamphlet that is put out twice a year by the Planning Board. I regret that we have not the copies of the 1955 pamphlet; they are all gone. However, there is a 1956 copy and copies of 1954 for February and August. I also have here "The Prospects for Economic Growth in Saskatchewan." this is the submission to the Gordon Commission which was prepared by the Government and put together by the Planning Board.

I think, if it is agreeable with you, Mr. Speaker, and members of the House, I would like to have these distributed so that all members will have copies of same.

SATURDAY SITTING OF THE ASSEMBLY

Premier Douglas: — Mr. Speaker, before Orders of the Day, there is a matter concerning the business of the House. Hon. members will notice that there is a motion on the Order Paper with respect to sitting tomorrow. That motion was placed there because there are six Bills now before the House – I think one of them was passed yesterday; but at the time I gave notice of the motion there were six Bills before the House which must have assent before April 1, and I put the motion on the Order paper so that we could sit tomorrow if necessary in order to deal with those Bills. If the Bills are disposed of today and the members don't want to sit tomorrow then I will be quite prepared to withdraw the motion. Even if the Bills are passed and the members want to sit tomorrow, there is nothing to prevent us sitting tomorrow, and I will move the motion later this day.

What I am suggesting is that, if we dispose of these Bills and the members don't want to sit tomorrow, if the Whips will get together and inform me what their decision about sitting tomorrow is, I will be in a better position to know whether or not to proceed with this motion. So what I will do at this time is let the motion stand, and if the members feel they want to sit tomorrow, then I will proceed with the

motion later today. Of course, if we have to sit tomorrow to deal with these Bills, in that case we will have to sit anyway, because these Bills must get assent. I am simply explaining why I will let the motion stand for the time being and deal with it later today.

Mr. McDonald (Leader of the Official Opposition): — What Bills are there?

Premier Douglas: — I particularly have in mind The Fire Prevention Act which was given third reading yesterday, so we don't need to worry about it. Then there are four Superannuation Bills – one of those passed was yesterday, so there are only three left. Then there is the Vehicles Act. We are not sure as to what the legal implications would be, but they could be very considerable implications if these Acts did not come into effect on 1st April. That would be particularly true of car licences. The present licences expire under present legislation on March 31, and can only be extended by legislation to April 1.

SECOND READINGS

Bill No. 87 – An Act to amend The Provincial Mediation Board Act.

Hon. R.A. Walker (Attorney General): — Mr. Speaker, I will make my comments in reference to this Bill and the two succeeding Bills at the same time, if I may, because the three Bills are related. I refer to the Bills to amend The Leasehold Regulation Act and to amend The Landlord and Tenant Act.

Under the law of this province there is only very limited power in a district court judge to grant relief to a tenant where an application has been made for possession. Some provinces – I think the province of Quebec, for example, has legislation which, during the winter months, prevents evictions during those months. The result is that in the summer months only landlords bring actions for eviction. It is proposed, under this group of Bills, to provide that in any action for eviction of a tenant under The Landlord and Tenant Act, the Mediation Board, on receiving notice of the application may hear the parties and may make an order suspending or prohibiting proceedings for possession. This applies to all tenancies in Saskatchewan with the exception of agricultural lands, and applies to the dwellings even on agricultural lands.

I think I should say that it is the intention of the legislation that the Board will use this power in a limited way for the protection of tenants who may be evicted in circumstances which would result in severe hardship being inflicted upon the tenant or his family. the intention of the Bill is not to provide a permanent status of landlord and tenant to the parties, but rather to give relief to tenants where an emergency situation exists. The Bill provides that the tenant shall apply to the Board for this protection.

The legislation amending The Landlord and Tenant Act provides that when the application is made to the judge for the writ of

possession the application must contain, in addition to the things which were formerly required, a notice to the tenant, and the notice is in these terms:

> "And further take notice that if you object to repossession by me of the said lands you should, as soon as possible, make an application in writing to the Provincial Mediation Board, Regina, Saskatchewan, for the order prohibiting the granting of a writ of possession."

That of course, is the only way by which the tenant can be apprised of his rights; it is the only way by which the Board can have notice of the intended proceeding, and the only way by which it can know about the situation.

The Bill to amend The Leasehold Regulation Act is taking out of The Leasehold Regulation Act the requirement that the Board must sit upon all cases for possession. As hon. members know, the present law is that, in so-called 'controlled premises', the landlord cannot take his proceedings under The Landlord and Tenant Act until he has first gone to the Board and the Board has made their inspections and had their hearings and given an Order, and that Order gives leave to the District Court Judge to issue the writ of possession; the tenancy is terminated by the Medication Board. The result is that thousands of cases a year are channelled through the Board because they have to go to the Board. there is no other place to go, first of all, to get the tenancy terminated. They are put to the trouble and expense of going to the Board and then applying to the Judge for writ of possession under The Landlord and Tenant Act.

This is an attempt to make uniform the treatment of landlords and tenants, and the protection given to landlord and tenants, under both Acts. It is wiping out the distinction so far as termination of tenancies is concerned, and writs of possession, wiping out the distinction that formerly existed between so-called controlled and uncontrolled premises. It is placing them each on an equal footing so far as obtaining possession is concerned.

With those remarks, Mr. Speaker, I move second reading of this Bill to amend The Provincial Mediation Board Act.

Mr. McCarthy: — Mr. Speaker, could I ask the Minister a question? Does this apply to farmlands? Does this cover farm lands under agreement for sale?

Hon. Mr. Walker: — I had better wait to answer that. If I speak now I will be closing the debate.

Mr. Speaker: — The hon. member may answer the question.

Hon. Mr. Walker: — The answer is – under Section 1, which replaced section 9 (a), which provides a new section 9 (a): "it is provided that in the case of land occupied solely for the purpose

of husbandry, agriculture or horticulture, sub-section (1) applies only with respect to the residence and other buildings on such land and the land surrounding such buildings and used in connection therewith up to and not exceeding two acres and any land necessary for reasonable access thereto."

So it does not interfere with the cultivated land under farm leases. The law remains exactly the same, and I say the purpose of it is just to make sure that people aren't physically evicted from a building during unseasonable weather.

Mrs. M.J. Batten (Humboldt): — Mr. Speaker, I have a little difficulty seeing exactly why these powers have been given to the Provincial Mediation Board when they could just as easily have been given to the district Court Judge who hears these applications for a writ of possession. There is a further complication by putting in a set form as a demand for possession. It makes it that much more difficult and frequently delays the demand because, as we all know, particularly in smaller points – I don't know what it is like in Regina or Saskatoon; but many people give demands for possession or notice to vacate to their tenants by themselves, without consulting a lawyer, and I am sure that not very many people are gong to know the regulations and the form that is set out in The Landlord and Tenant Act.

I think, further, that insofar as these smaller centres are concerned, it is quite an inconvenience to them to have to deal with The Provincial Mediation Board, even though they go to the Sheriff, he has to refer things back to Regina and then get a report and speak to them, and it makes for a lot of delay. I certainly don't think people should be put out of their homes during the winter months, but there is no reason why that regulation cannot be put into The Landlord and Tenant Act.

I think, too that the judge should have quite a lot of discretion as to the amount of time that he sets out in the writ of possession. It is not necessary that the judge give an immediate right to the landlord to dispossess the tenant. If he is given authority under this Act to act according to the equity, or according to the inconvenience that might be caused to the tenant, he will certainly do so, and I think, Mr. Speaker, this is particularly important because the evidence that comes before the judge is sworn evidence; there is no question about the truth of it; the parties are all there at one time. The evidence so often that comes before the Provincial mediation Board is hodge-podge – the tenant comes in one day and the landlord comes in three or four weeks later. Further, the evidence isn't worn; the evidence is hearsay; the evidence is by letter; there is no way of contradicting or assimilating or really figuring out what the evidence means, or what the truth of the situation is.

Many landlords aren't rich capitalists – they are just poor people who probably need the income from the hone they are renting in order to make ends meet and meet their living expenses, and I don't think these landlords should be put to any more inconvenience than is absolutely necessary in order to preserve the rights of the tenant.

I am, therefore, against this proposed change.

Mr. W.G. Davies (Moose Jaw City): — I would like to ask the hon. Minister whether or not the Provincial Mediation Board may not take evidence under oath?

Mr. McDonald: — Mr. Speaker, there is one question that I would like to ask the Minister to clears up when he closes the debate. I am just wondering. If I understood him right his meaning was that, as far as the tenant on a farm is concerned, he could not be displaced from buildings or some two acres of land around those buildings, during the winter months. Well, I can see where that could certainly cause a great hardship to many landowners under many leases, where the tenant is also taking care of (we'll say) livestock that belongs to the landowner. If the landowner should decide that he wants someone close to take care of his livestock during the winter months, how would it be possible for him to do so if he were not able to displace the tenant who was occupying the buildings during the winter months? It seems to me that, if a landowner owns livestock and he has a tenant taking care of that livestock, then certainly, he should be able to displace any tenant who is occupying those buildings in order to have another tenant or labourer take care of this livestock during the winter months. I am not clear as to whether I am right or wrong on that, but I hope the Attorney General will give us that information on it.

Mr. Speaker: — It is my duty to inform the Assembly that the hon. Minister is about to close the debate and anyone who wishes to speak must do so now.

Hon. Mr. Walker (closing debate): — Mr. Speaker, in reference to the question raised by the hon. member for Humboldt (Mrs. Batten) as to why these powers were not given to the District Court Judge, the District Court Judge, of course, has powers under the Landlord and Tenant Act to grant relief against forfeitures and they are quite wide powers which are exercised very rarely, and which can still be exercised in a proper case by the District Court Judge, if he thinks that they should be exercised by him. The giving of the powers to the Board, however, ensures that a certain minimum and uniform standard will be applied to all judicial districts which may not necessarily be the case where eighteen different judges are applying their own standards to the case. I say that with out in any reflecting on the good judgment of the judges. They may give opposite results and still exercise good judgment in the matters; but it is very important, I think, that not only should good judgment be rendered in the matter, but that there should also be a degree of uniformity of treatment between tenants in one part of the province and tenants in another. For that reason the Board is to be given that power to intervene in the first instance. Then if the Board is too lenient and doesn't exercise its jurisdiction to intervene, the judges still have the right, under The Landlord and Tenant Act, to grant relief against any of the terms of the lease, as they have now.

The suggestion is that we might provide that, in wintertime, termination of a tenancy would be simply prohibited, which, as I understand, is the situation in one province in Canada. That situation results in considerable injustice. A tenant, assured that he cannot be

evicted, may quit paying rent, and that would certainly be a factor which the Board would take into consideration in deciding to withhold the protection of the Act from such a tenant. It may be perfectly justified that a tenant be evicted, even in the middle of winter, under certain circumstances which the Board could, in its discretion, apply. The difficulty with an arbitrary and ironclad prohibition against eviction during certain months of the year is that you often perpetrate injustices on the one hand in order to grant protection on the other. It is these matters and will refuse to give protection where protection isn't deserved, and at the same time be free to grant it where the circumstances seem to warrant it.

As to the question whether the Board may take evidence under oath, I am not aware of any prohibition against the Board taking evidence under oath. I think I know of cases where it has done so, and I have no doubt it may do so.

The question raised as to whether a farmer owning a farm and wishing to change the occupant under a contract of employment would not, of course, come under The Landlord and Tenant Act. Where the occupant is an employee and, as my hon. friend suggests, a hired man, he is not, strictly speaking, a tenant within the meaning of The Landlord and Tenant Act and with regard to termination of his employment, the Courts have always held that, irrespective of the terms of his occupancy he is not a tenant under The Landlord and Tenant Act and could be moved out. We don't propose to extend the effectiveness of this protection beyond the cases which fall squarely within The Landlord and Tenant Act.

Mr. McDonald: — May I ask another question? Today there are a good many, especially young, people who are operating a farm for a landowner but may have the farm rented, that is as to the production of cereal crops; but many of them have not been in a financial position where they could buy livestock, and consequently, the owner of the land probably has planted his livestock and the tenant may be taking care of the livestock for the owner; they may have them on a share basis. In that case what do you call him? Is he a tenant, is he an employee or what is he? And would he come under the Act or not?

Hon. Mr. Walker: — It is pretty difficult to say on such meagre facts. The judge would have to decide whether in essence this was a tenancy or whether in essence it was a contract for employment and he would have to draw the line somewhere and if it was a contract of employment, under which the occupant was residing in the building the protection wouldn't be given to him. It would be a question of fact in each case. If it was a genuine bona-fide case of tenancy, then he would be entitled to the protection; otherwise he would not. It is impossible to say just what would be the result without having all the facts and then, of course, it would just be my opinion; and in a case such as that the judge's opinion might be different from mine. It would depend altogether on how he viewed the facts.

I move Second Reading of Bill No. 87.

(Motion agreed to, and Bill referred to a Committee of the Whole at next sitting.)

Bill No. 82 – An Act to amend The Mechanics' Lien Act.

The Assembly resumed from Wednesday, March 27, 1957, the adjourned debate on the proposed motion of the Hon. Mr. Walker "That Bill No. 82 – an Act to amend The Mechanics' Lien Act – be now read the second time."

Mrs. M.J. Batten (Humboldt): — The only question, Mr. Speaker, I wish to ask is whether this amendment to The Mechanics' Lien Act will, by cancelling the lease, cancel the lien. My question is will that amendment cancel the lien insofar as the chattels are concerned?

Hon. Mr. Walker: — Mr. Speaker, this legislation does not affect the lien on the chattels. It does provide for the surrender or cancellation of lease for the withdrawal of the mechanics' lien, and I would point out to the House that by virtue of Section 21, sub-section 2:

"Such lien shall not affect the rights of the Crown."

When a lien is registered against a mineral permit and that permit is cancelled, before it is cancelled the lien applies not only to the permit, but applies also to certain fixtures and chattels and tools and so on that are in use on that permit. Now when the permit is cancelled the lien ceases to affect the permit. So far as the Crown is concerned it does not recognize the mechanics' lien. Section 21, sub-section 2 provides: "Such lien shall not affect the rights of the Crown." Once the permit is cancelled the lien disappears.

Mr. Speaker: — Might I draw it to the hon. member's attention that you can only answer the question that was asked at this time.

Mrs. Batten: — Perhaps, Mr. Speaker, I didn't make my question quite clear. The only thing I am interested in at this point – the rest I can discuss in Committee; but the only thing I want to be reassured on is that the cancellation of the lien by the cancellation of the lease will not affect the lien on the chattels and fixtures.

Hon. Mr. Walker: — I was going to come to that. Since the lien disappears as far as the land is concerned, then by virtue of sub-section 2 of Section 4 there can no longer be any lien on the chattels and fixtures. It has already ceased to exist as soon as the permit is cancelled, because sub-section 2 of Section 4 says "a person who has a lien under sub-section 1 in respect of any mine, mining claim, mining land, oil well or gas well, shall also have a lien upon the fixtures, machinery, tools, appliance equipment and other property in or on the mine, mining claim, mining land, oil well or gas well." So the existence of a lien at all upon the chattels depends upon there being a lien on the permit. A person who has a lien under sub-section 1, which is a lien on the permit, when he has no lien under sub-section 1 he has no lien on the fixtures or appliances either. Now that is, as I understand it, the present law affecting mechanics' liens

on mines and mining lands. This section doesn't change that law. This section merely provides for the removal of the memorandum from the title of the permit after the permit has been surrendered. That right, in my opinion, never has existed once the permit has been cancelled and even though it never existed this section doesn't destroy the lien, the lien is already gone as soon as the permit is forfeited to the Crown. All this section does is provide for the removing of the endorsement from the document.

Mrs. Batten: — Mr. Speaker, in order not to degenerate this into a legal debate, with your leave I will move that we further adjourn this motion and I will endeavour to see the Hon. Attorney General in the meantime and perhaps get this straightened out.

Premier Douglas: — This is going to be a good deal of discussion and we are really now into discussing details of Bills. None of these things have to do with the principle of the Bill. Wouldn't it be better to let this go into Committee of the Whole where it could be discussed because actually we are all out of order now; the Attorney General has been up and up and he has closed the debate, and it would be much better if we went into Committee of the Whole unless somebody wants to make a speech on the principle of the Bill.

Mrs. Batten: — Mr. Speaker, the problem is that we are not agreed on the principle of the Bill and as the principle was stated by the Attorney General, I would certainly be against it in principle. Now that is my problem. If it was merely a mechanical thing I certainly wouldn't mind it going into the Committee, but if that principle is stated correctly – I don't think it is; but if it were, then I would be against it in principle and I would want to speak on it. For that I asked for leave to adjourn it further.

Premier Douglas: — I have no objection except, Mr. Speaker, I would point out that we can't keep asking questions about it. I think the questions will have to be asked in Committee.

Mr. Speaker: — Is it agreed that the hon. member has leave to adjourn the debate?

(Debate adjourned).

The Assembly adjourned at 9.00 o'clock p.m.