

LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
Third Session – Thirteenth Legislature
28th Day

Tuesday, March 24, 1959

The House opened at 2:30 o'clock p.m.

On the Orders of the Day:

WELCOME TO STUDENTS

Hon. J.H. Sturdy: — Mr. Speaker, before the Orders of the Day, I wish to draw the attention of the members of the House to another group of Saskatoon Grade VIII students. I am sure that you will agree that each succeeding group is just a little bit better than the one which preceded it, and we have now reached the epitome of perfection. This is a group of Grade VIII students from Mayfair School, and they assure me, as also does their teacher, that it is quite the best school in Saskatoon. On your behalf, Mr. Speaker, we bid the boys and girls welcome to the Legislature. We trust their visit to Regina will be an enjoyable and interesting one.

I should like, in particular, to welcome the students' teacher, Miss Clements. Miss Clements was a member of my staff, and may I add, one of the best members of my staff in the days when I was principal of the Fort Qu'Appelle School. Miss Clements, on behalf of the members, we express appreciation to you personally for your dedication to education in the schools of this province over the years, and through you to express to all teachers of the province equally our sincere appreciation. We feel, and we have never been contradicted, that we have the best teachers in Saskatchewan to be found on the continent, and certainly in the Dominion of Canada.

DOMINION-PROVINCIAL TAX CONFERENCE

The Assembly resumed from Friday, March 13, 1959 the adjourned debate on the proposed motion of Mr. Thorson:

“That this Assembly, requests the Government of Saskatchewan to again urge the Government of Canada to convene a Dominion-Provincial conference at which special attention will be given to establishing a policy whereby the Provinces receive a larger share and a more equitable distribution of funds from the Government of Canada within the framework of the Tax-Rental Agreements.”

Mr. E.I. Wood (Swift Current):

Mr. Speaker, on resuming the adjourned debate on the desirability of a Federal-Provincial Conference, on the reconsideration of the Tax-Rental Agreement, I do not wish to take up too much of your time, but I would like to express a few thoughts, while endeavouring to look at these matters from the viewpoint

of the municipalities. As the mover and seconder of this motion have pointed out, over the last 90 years the relationships between the responsibilities of the lesser governments of our nation and their ability to raise money, has changed a great deal. In fact, there is a widespread feeling among the municipal men that their ability to raise money to meet the local demand for services had just reached its limits, and I may say that, undoubtedly, their ratepayers support them in this belief. Whether or not this contention is entirely true is open to some debate. One cannot help but wonder, when one notices the varying degrees of taxation in the different municipalities whether all of them are being really taxed to the limits of their resources. This feeling is somewhat heightened when one sees in many instances that, certain forms of taxation, such as amusement tax, are entirely ignored. It is certain, as was pointed out during this Session by the Minister of Natural Resources, that municipal taxation here is no higher than it is in our adjoining provinces.

I do believe on the whole, the burden of taxation upon property in all the provinces of the Dominion has reached the point where further taxes would be difficult to collect, especially in those provinces where they are what we might say, are not so fortunate or the slightly depressed provinces. It is quite possible that we are going to need further taxes in order to keep up with the increased demand for services that we have in these days. In this regard, if I may, Mr. Speaker, I would like to read part of a paragraph from Hansard, Wednesday, March 11, 1959. Mr. Robichaud, the Liberal member for Gloucester, New Brunswick, has some remarks on this matter which I think we would find interesting in this House. He says:

“Direct taxation in the different municipalities of New Brunswick has reached its limit. Some of those counties may certainly be a good section of the country in which to live, but we have reached the point where it is impossible to live and expect the same privileges as enjoyed in other sections of the country. I do not want to cite any specific examples, concerning my municipality of Gloucester but for example, owning a car in Canada is not ordinarily considered a luxury. In some counties in the province of New Brunswick, the owner of a car has to pay from \$36 to \$70 a year municipal taxes, if it is a small imported car like an Austin or any of the others of similar make. If he is the owner of what we call a standard car, like a Ford or Chevrolet, his municipal taxes are from \$54 to \$110 a year. If he is the owner of a larger car, such as a Buick or Monarch, his taxes are from \$100 to \$200 a year.

I am not blaming our municipal councilors, because these gentlemen are doing the impossible to meet the existing demands of their respective municipalities. But nevertheless, the situation is beyond their control, and they have no other field of taxation from which to raise the funds required for the administration of their municipalities.”

I believe there is a minimum of services to which each person in our country is eligible, irrespective of the ability of the municipality in which he lives to pay for these services. I would also like to point out that this ability to pay in Saskatchewan by the ratepayers and taxpayers of the province, has not been helped any by the cost-price squeeze which we are just going through. This not only affects the rural areas, but it is carried forward into the urban centres as well. I think it is a very pertinent question as to whether or not further taxes can be found in the municipalities – or is help outside the municipality to be the answer?

It is true that a diversification of taxes within the municipality would lift some of the load off the property holders, and it is also true that the wider field of taxation we have, the better the principle of equalization can be carried out. In this regard, the larger the municipal unit the better, and it is possible that provincial rather than municipal taxation could be better yet, insofar as equalization is concerned. The fact is that this whole problem of provincial-municipal relationship cannot be considered without the pros and cons of municipal reorganization, and I certainly do not mean to go into that today.

Aside from raising taxes, I believe this Government is doing all within its power to assist the municipalities. I think that a good yardstick to measure the way in which this Government is aiding municipalities is the fact that, as the former speaker in this debate pointed out, the members opposite have failed to show us any expenditure that we should cut from our budget for the province, in order to give further assistance. They have not come forward and said that we should cut this thing out. This Government has, in the past, vacated the fields of Public Revenue to the municipalities. It has been more than a gesture. They have gone out of their way to turn over to the municipalities a million or two a year in vacating the field of Public Revenue. No government of this province has ever put on an amusement tax, as has been put on in some other provinces of the Dominion. Currently we are spending some \$36 million of our provincial revenues for the benefit of municipalities, a figure which has increased sharply both actually and percentagewise, since this Government has come into power. We have also utilized the principle of equalization to a marked degree. In the case of assisting municipalities in the building of roads, we have an equalization grant and the basis of the provincial participation in the grid road system is such that, although some of the poorer municipalities still find it difficult to enter this program, the formula itself does favour the lower-

assessed municipality. Whereas the Provincial Government pays approximately 45 per cent of the cost of education in the province as a whole, it pays as high as in the neighbourhood of 80 per cent in some school units. On the whole our system of hospitalization is possibly not on what you could actually term an equalized basis; it has provided hospitalization throughout the province, regardless of the ability of any given municipality to pay.

Also I might point out in social aid, those municipalities having the heavier loads have received special assistance in the past, and I understand that, under the legislation which has been brought in during this Session, these harder hit municipalities will receive yet further aid than they are now getting.

It is a good question as to just how much the municipalities would be benefited by increased taxation by the province on their behalf. In the large majority of cases, if the province were to put on an added tax for the benefit of the municipalities, it would be the same people who were paying this tax who were already over-burdened with taxation in the municipalities themselves, and the only real difference would be that the municipalities would be losing their autonomy to the extent that the province took over their prerogative of taxation.

I believe that the only real relief for the municipalities in this matter of taxation is by either broadening our tax base, or by receiving an equalized share of the national revenue. In the former regard, this Government has done its utmost, in spite of some carping criticism to increase the mineral and industrial development of this province, and has had and is achieving conspicuous success. Revenue which we have received from mineral resources alone is a case in point, where such moneys have gone into our consolidated funds, and used for the relief of taxation burden of the municipalities. I believe this is just a foretaste of such things as we might expect in the future, as a result of this Government's energetic policy of fostering this type of development.

This does not take the onus off the Federal Government to see that we receive our rightful share of the national tax dollar, and the latest figures that I have been able to obtain, which are for 1958, are to the effect that all of the moneys collected by the governments of Canada, the Federal Government received some 75 per cent, the provinces 11 per cent, and the municipalities 14 per cent. Even after transfer of payments had been taken into consideration, I understand that in the final figures for the final spending, the Federal Government spends in the neighbourhood of 60 per cent of our tax moneys which are collected from all sources in the Dominion of Canada.

The mover and the seconder have made an excellent case showing that we should have a larger share of these revenues, and I do not wish to be repetitious. I feel we must have the opportunity to sit with the other provinces, together with the Federal Government, to discuss ways and means of working out a better and a more equitable solution and dis-

bursement of our tax moneys. After all, the Federal Government is probably in the best position of applying any new tax, if such new taxes are to be desired, and most certainly they are in the best position for working out the principles of equalization. If the municipalities of this province are to receive added assistance, which is not be taken right back from their own over-burdened taxpayers at the present time, or something that is aside from what we are able to derive from our own expansion of our own mineral or industrial development, it must come from the Federal resources.

Our municipalities have everything to gain from a more favourable Federal-Provincial Tax Agreement, and I do most heartily support this motion.

Mr. Ross A. McCarthy (Cannington):

Mr. Speaker, I would like to say a few words on this motion. I have no quarrel with the motion, as such, but I don't think it goes quite far enough. I agree with my friend who just sat down to a certain extent, that the municipalities of this province should be put in a more favourable position. After all, the municipalities bear the same relations with the Provincial Government, as the Provincial Government to the Federal Government. That is, the provinces are a creation of the Federal Government and vice versa.

Hon. Mr. Walker: — No, they are not.

Mr. McCarthy: — Their responsibilities are similar, and the municipalities are in exactly the same position. You can say "no" if you like, but I don't think this Government has very much grounds for criticizing the treatment they get from the Federal Government, when they just need to turn around and look at the treatment that they give the municipalities which are under them. Speaking of the amounts for Dominion, provincial and municipal, I have the Treasurer's figures here, and as far as I can see, possibly somewhere around 5 per cent of the budget goes to the municipalities. It is true that this Government pays a lot of other things to municipalities. They pay different things that help the municipalities; but it is equally true that the Dominion Government pays things which help the Provincial Government. So we are in about the same position relatively; and I am quite sure that the Provincial Treasurer over there would not want to be in the same position with regard to grants that he gets from the Dominion, as we are getting from this Government to the municipalities. Most of our grants are political, more or less; they are not continuing. The municipalities do not know from one year to the next what they are going to get. They get just what the Government of the day happens to think there is coming to them, and there is nothing for them to build on for future continuation.

With the Dominion, you have a grant; you know exactly what you are getting, and there is not much difference in them. The Dominion pays a great deal to the province which were originally provincial responsibilities, and true, the Provincial Government pays many responsibilities

of municipalities which were formerly municipal responsibilities. But the whole situation is very similar, and I am quite sure that a better arrangement could be made, and should be made, if we expect our municipalities to carry on.

I was rather amused, or I should say rather disappointed, to hear the gentleman over there just say that what we need is larger municipalities. I don't know where he gets the idea.

Mr. Wood (Swift Current):

On a point of privilege, Mr. Speaker, I did not say that at all. That is not quite what I said. I said that was one of the things that would be involved in this discussion under question. I did not make any definite statement on it.

Mr. McCarthy: — I've made a note of what he said, Mr. Speaker, and he said we would be better off with larger municipalities.

Hon. Mr. Walker: — He did not.

Mr. McCarthy: — I don't know where he gets his information. He certainly does not get it from municipal men in this province, because they have said on different occasions, and very recently, that they did not consider that the solution.

Mr. Wood: — Mr. Speaker, on a point of privilege. I think I can give the gentleman a very good idea of what I did say. I said: "It is also true that the wider field of taxation, the better the principle of equalization can be utilized. In this regard, the larger the municipal unit, the better". I went on to say that the whole thing could be . . .

Mr. McCarthy: — That's exactly what I said you said. I want to repeat that I don't know where he gets his information from. He certainly did not get it from municipal men in this province, because they have said repeatedly, and just very lately, that that was not either view. Their view is that our difficulties are largely financial, and not geographic. I want to say here and now that one of the kindest things this Government could do is to ensure the municipal men at this moment, just where they are going in that respect. They are very much disturbed at this moment . . .

Mr. Speaker: — Will the hon. member please keep to the subject matter of the motion!

Mr. McCarthy: — I quite agree with your ruling, Mr. Speaker, but both the mover of this motion, and the gentleman who just spoke on it, went into municipal affairs quite thoroughly, and I was only attempting to reply to what they had said.

Hon. Mr. Walker: — They were keeping within the rules, though.

Mr. McCarthy: — I think I might be allowed to make this observation, Mr. Speaker, seeing that he mentioned larger units; I did not bring this up. That is not the opinion of the municipal men, and what is bothering municipal men today is that they don't know which way they are going, and it would be a kindness on the part of this Government to let them know, to come out and tell them directly whether they are going to have a vote on it or not. It would be, in my opinion, if these grants that have been made, and are being made, to municipalities should be made on an unconditional basis. I know that this Government over here has a very low opinion of the ability and efficiency of municipal men at the moment, but still that is the proper thing to do. In 1947 we had a system of grants we set up in this province that were equitable, the best system of grants we have ever had; but they did not last very long. Why didn't you build up on them? You said in 1947, they would be a flat grant of \$500 to each municipality, and that the rest of the grants would be put on an equalization basis. You departed from the \$500, and you also have departed from giving it to every municipality. Those are the sorts of grants we should have to help our municipalities.

I am quite sure the Provincial Government would not want to operate today the way the municipalities are operating and, as I said, I agree that this resolution should go very much further; it should take in the municipal set-ups as we have them today. You cannot keep the municipalities in the state they are in now and expect them to operate efficiently. I think no one knows that better than our Continuing Committee today. One of the Committee said it might be a year, another said it might be two, and another said it might be five, before we would have a report from that Committee. But the kindest thing this Government could do would be to say directly, in so many words, that you are going to allow the municipalities to vote on that particular question, and then they would know which way they were going.

Premier Douglas: — They know where they're going; it's just you that doesn't know where you're going.

Mr. McCarthy: — That's two of us; that's you and I both! But if you talked to municipal men you will find that you are wrong.

Mr. Speaker: — Will the hon. member confine himself to the motion.

Mr. McCarthy: — I quite agree with you, Mr. Speaker, but you allowed a very wide latitude when the hon. member who introduced the motion was speaking, when he referred to local government at least four times. The last speaker went into the details of local government.

Mr. Thorson (Souris-Estevan):

Mr. Speaker, on a point of privilege. I want to make it clear that I said nothing at any time in my speech about local governments and their reorganization, or local governments at all.

Mr. McCarthy: — No, not about reorganization, but I have your speech here, and I will read back what you said, if you like, and on four different occasions you introduced the subject of local government.

Hon. Mr. Walker: — It was a lot better speech than the one you're making.

Mr. McCarthy: — That's fine. I agree with you there; but he didn't know what he was talking about as well as I do.

Mr. Speaker: — Order! Will the hon. member please deal with the motion before the House?

Mr. McCarthy: — Well, Mr. Speaker, in order to get the thing where we can discuss it, I am prepared to move an amendment, if you will accept it, which will read:

“We urge the Government of Saskatchewan to give consideration to allotting a reasonable share of money received from the Federal Government under the Tax-Rental Agreements to the payment of unconditional grants to the municipalities.”

Hon. Mr. Fines: — Mr. Speaker, is this amendment acceptable?

Mr. Speaker: — In my opinion, the proposed amendment is in order.

Hon. Mr. Fines: — In that case, I would move, seconded by the Hon. Mr. Douglas (Weyburn):

“That the proposed amendment be amended as follows:

- (1) That the word ‘urge’ in the first line be deleted, and the word ‘commend’ substituted therefor;
- (2) That the words ‘to give consideration to allotting’ be deleted, and the following words substituted therefor: ‘for giving’.”

Mr. Speaker, I think . . .

Mr. McDonald: — Mr. Speaker, could we have a ruling here. Is the amendment to the amendment in order, or not?

Hon. Mr. Fines: — There's no question about that.

Mr. McCarthy: — It changes the whole nature. If you feel that way, you should vote against it.

Mr. McDonald: — It changes the whole subject.

Mr. Danielson: — Mr. Speaker, this is a direct negative of the amendment.

Mr. Speaker: — I rule the proposed amendment to the amendment admissible.

Mr. McDonald: — Mr. Speaker, on your ruling, I would like to point out that this has completely destroyed the meaning of the

amendment and, in my humble opinion, the amendment to the amendment is not in order. If need be, I appeal your ruling.

Mr. Danielson: — Mr. Speaker, this is a direct negative of the amendment which was moved by the member for Cannington. A negative to any motion is out of order.

Premier Douglas: — It is not a negative.

Mr. McCarthy: — It is. It is exactly the opposite; it changes the meaning altogether.

Mr. Speaker: — Order! Order!

Mr. Lopton: — This would be asking for just the opposite of what the motion stands for.

Mr. Speaker: — I understand that the Leader of the Opposition has appealed the ruling. Therefore, I shall put the question:

Shall the ruling of the Chair be sustained?

Mr. Speaker's ruling was sustained on recorded division by 31 votes to 16.

Hon. Mr. Fines: — Mr. Speaker, speaking to the proposed amendment to the amendment, I had not intended to get into this debate on municipalities, but do welcome now the opportunity to do so, since it has been brought up. I would say that the record of this Government is one which can stand a very careful scrutiny when placed beside that of any other government in Canada. I know there is a great deal of misunderstanding in the minds of many people as to the amount that we do receive under these Tax Agreements. I think there has been a great deal of misinformation given. Some of it has been deliberate; some of it probably not so deliberate. I have, for example, here in my hands the press reports of the Dominion-Provincial Conferences away back in 1956. For instance, here is a type of headline that appeared in the 'Leader-Post', July 17, 1956: "\$6,135,000 Boost for Saskatchewan" the 'Star-Phoenix' of the same date: "Saskatchewan's Tax Share \$6 Millions."

What was the truth? First of all, this was a statement which was given by Mr. Harris, former Minister of Finance. He estimated that, in 1957-58, under the new Tax Agreement Saskatchewan would receive a total of \$36,145,000, an increase of \$6,135,000 over 1956-57. What actually happened was that it turned out to be not \$36 million but \$32,777,000, actually \$3,368,000 less than the estimates of the Liberal Minister of Finance of that day.

I am not surprised that the people of Saskatchewan get confused when they read these headlines. I am not surprised that immediately we have School Trustees' Associations, and Urban and Municipal Associations, writing to the Provincial Government, writing in for more money for this and for that, when they read these headlines which prove later to be false. The same thing was true last year. In the House of Commons last

year, the statement was made that Saskatchewan would receive \$36½ million. A headline like this appeared in the paper: "Saskatchewan would receive \$3,290,000 more." Well, we knew that this was very optimistic. We didn't bring into this House an estimate last year of \$36½ million, as was stated in the House of Commons by Mr. Fleming, present Minister of Finance, that it was estimated the province would receive. Instead, we showed an estimated revenue for the year of \$2 million less than that, or \$34,500,000. I got the final cheques last week, and the total amount received this year is \$33,900,000! Our estimate was even \$600,000 too high.

Mr. Speaker, one of the things I hope you have noticed is that, in 1956-57, the total amount we received was just about \$30 million. We are estimating, for 1959-60, \$34,200,000. This year we have \$33,900,000. In other words, we have not received anything like the \$36½ million that was predicted by Mr. Harris away back in 1956; we are still about \$2½ million short of receiving that amount. When we received \$30 million, we were giving indirect assistance to the municipalities of approximately \$20 million. Today, we anticipate receiving approximately \$34 million next year, and the amount which we are including for direct assistance to local governments next year totals \$36 million. In other words, we shall be giving to the municipalities, the school districts, next year, \$16 million more than we were giving in 1956-57, and yet we are receiving from Ottawa only \$4 million more. In other words, we are giving to the local school districts of municipalities in Saskatchewan, \$4 for every \$1 additional that we are receiving from the Federal Government at Ottawa. Does that look as though we are treating local governments in a niggardly manner?

Opposition Members: — Rubbish!

Hon. Mr. Fines: — My hon. friends say this is rubbish! I am sure that the school districts and municipalities will be interested to know that this \$36 million is rubbish, Mr. Speaker. For example, the other day a press report in the 'Star-Phoenix' indicated that the school district would only have to increase its mill rate one-half a mill whereas, prior to the announcement of the increase in school grants, they had anticipated a five and one-half mill increase. This year alone we have increased school grants by (including the \$400,000 which was put in the first time) \$4 million, and I would remind you again, Mr. Speaker, that, in the last four years, the total increase under the Dominion-Provincial grants was only \$4 million — it went up to \$34 million. We gave that much of an increase this year; last year, \$3 million, and in the last four years we have more than doubled the grants for education.

Our share of the cost for social aid used to be 50 per cent in 1957; today it is 75 per cent, and the actual figures indicate that next year we should be paying well over 90 per cent of the cost of social aid for Saskatchewan. This didn't look like rubbish, Mr. Speaker, as referred to by the hon. members opposite.

Mr. McDonald: — What you are saying is rubbish!

Hon. Mr. Fines: — I am sure that, if the people of Saskatchewan could

get the truth, if we did not have ambassadors of falsehoods going around this province giving wrong information the municipalities and school districts would appreciate what is being done for them.

I am amazed that the hon. members opposite feel that we are being treated generously by Ottawa. I wish they would read 'Hansard', February 9th and 10th. I wish they would read the statements made on the one hand by Mr. Paul Martin, and on the other hand by Mr. Benidickson. There they would see that these Federal Liberal leaders are being very critical of the fact that the Government of Saskatchewan, and other provinces of Canada are not getting as much as they should.

Hon. Members: — Hear! Hear!

Hon. Mr. Fines: — We don't need to go to the Liberals. All we need to do is to go to our next province of Manitoba, and there we have the Premier, Mr. Roblin, who has several demands which he will make to Ottawa, in spite of the fact that this Government is of the same political complexion. He told the Provincial Legislature, Monday night, that the conservative Government at Ottawa is not giving the provinces a fair share of federal funds. That's what we have said.

Mr. McDonald: — That's what we say. You're not giving the municipalities a fair share.

Hon. Mr. Fines: — Mr. Speaker, the only time the Liberals have said it is after I reminded them that Mr. Martin and Mr. Benidickson had made these statements. Mr. Roblin said, and I want to go on with this report (this is in 'The Free Press' Tuesday, March 17th):

"Mr. Roblin went on to make several requests of the Federal government. First, he called for an early Conference of Provincial Premiers with the Prime Minister to ask for an immediate increase in the Provincial share of personal income taxes of from 13 to 16 per cent; corporation profit taxes from 9 to 15 per cent, and a payment equal to at least 50 per cent of the amount the former Federal Succession Duties would have provided."

This is exactly what the Saskatchewan Government asked for at the Conferences back in 1955 and 1956. I quote:

"... to provide long-term aid for soil and water conservation projects; to provide Federal aid to universities and technical schools; aid toward the \$85 million flood control program; more assistance for northern road development; (and here is a good one) extend the hospital plan to cover persons who are mentally ill or suffering from tuberculosis.

The Government of Manitoba contends that the present rates for the sharing of major tax revenues do not reflect the full and heavy measure of responsibility, pressing upon the provincial side.”

He went on to say:

“Arguing for the inclusion of mental illness in hospital schemes, the Premier said, ‘It is logical that the costs involved in these two areas of health services are no different from the remainder of the hospital plan. If one set of costs is shareable, so ought to be the other’.”

Here we have a leader of a Conservative Government to the one side of us; here we have two leaders of the Liberal Party in Ottawa, Mr. Benidickson and Mr. Martin; here we have the Government of Saskatchewan – three political parties represented here, calling upon the Dominion Government to give a greater share of the money received under these three types of taxation to the provincial governments. I see no reason why this resolution could not be supported unanimously. I see no reason why my amendment could not be supported unanimously. . .

Mr. McDonald: — If you had stayed on the amendment, it would have been.

Hon. Mr. Fines: — I see no reason why our hon. friends opposite cannot change their ways, repent and support, when they have been shown that the Government has been so generous; when they see, for example, these facts and figures which are indisputable presented . . .

Mr. McDonald: — They are not facts, and they are certainly disputable.

Hon. Mr. Fines: — . . . that we are giving \$4 to the local governments for every \$1 which is received additionally from Ottawa. The facts are there; they cannot be denied. I would suggest that we now get together and pass the first part, calling upon Ottawa to give a greater share, and also commending the Provincial Government for being as generous as has been possible with the limited amount of funds at our disposal.

Mr. McCarthy: — Mr. Speaker, I was very amused with some of the submissions made by the Provincial Treasurer. He went on to say how much they were giving to the municipalities. It is equally true, that in that time the Dominion Government stepped up their . . .

Hon. Mr. Fines: — . . . \$4 million.

Mr. McCarthy: — You are talking about indirect; we were talking about unconditional grants to municipalities, and you are talking about the other. But it is equally true that during the period you covered, the Dominion Government has relieved you of a lot more money than you relieved the municipalities of, comparatively.

Another thing, you started out some four years ago – why didn't you go back a little further, when 134 of our municipalities did not get a nickel in any kind of a grant?

Premier Douglas: — You mean go back to 1943-44?

Mr. McCarthy: — No, no! You don't need to go back to 1944. Just go back to after the 1952 election, when there were 134 municipalities which did not get any grants at all, any equalization grants. I, of course, cannot discuss the validity of this amendment, but I want to make the observation that ever since I have been in this House, they have done that continually. They have negated the motion, and I still say it is wrong, and it cannot be justified by any parliamentary procedure. They can add to, or take from, or vote against, but they can't destroy – and they have destroyed the amendment.

Premier Douglas: — The hon. member isn't an authority on parliamentary procedure, of course.

Mr. McCarthy: — Well, neither are you, so that makes two of us! If you were, you would not be objecting to it. You've got a lot to learn about authority, or if you know, you're not observing it. I don't know, Mr. Speaker, where we stand at the moment, or whether I could go on to discuss municipal affairs under this amendment or not, and I would like a ruling.

Mr. Speaker: — You may, providing you are in order.

Mr. McCarthy: — I have every respect for your position, Mr. Speaker, but I think that I should be able to continue on some of the remarks which I intended to make with regard to municipalities.

Mr. Speaker: — The hon. member has spoken on this motion and moved an amendment. The matter before the House is the amendment to the amendment.

Mr. McCarthy: — I sat down to allow you to put the amendment, Mr. Speaker, not because I was through. But you remember, you didn't put the first amendment. You allowed them to amend it before the amendment was before the House. You did not put my amendment. You allowed the hon. Government member to amend my amendment before it was put to the House, so I don't know. I had to sit down. In all deference to yourself, that is a fact. You did not put the amendment, and his amendment was not in order because you had not put the original amendment yet. So we have been very much out of order for some little time.

I was going to say, Mr. Speaker, that the condition of our rural municipalities is not very good. They are very confused at the moment, and I would like to see something done to stabilize them, so that they will know which way they are going. They don't know at the moment. If you will allow me, I will give you one illustration. I was talking to some municipal men in Convention, and they were debating whether they should buy a maintainer, or whether they should go on with a grid road and put it into dirt,

and they did not know which way to go. They needed a maintainer to maintain their grid. It was good business to do it, but if they did it, and there was a change in our municipal set-up, they would probably take that machine to some other part. What they were debating is whether they would go ahead and put it into dirt, which they didn't want to do; they would have rather spent it the other way. But that is just one instance of confusion to be found in the municipalities, and it all lies on the doorstep of this Government; they haven't given them any direction as to which way they are going.

I don't know that I have too much more to say here. I have no objection to the original resolution. I said so when I spoke, but I said it didn't go far enough. I said the municipalities should have an unconditional grant that carries over from year to year, and was not subject to the political whims of any government or the state of the provincial treasury. The Dominion Government give this grant to the provinces, and all I am asking is that the municipalities have similar treatment along similar lines. I think they are entitled to it.

Mr. A.H. McDonald (Leader of Official Opposition):

Mr. Speaker, I certainly agree with some of the things that have been said so far in this debate. I don't think there is anyone who realizes more than the Liberal Party in Saskatchewan, or myself, that we certainly, as citizens of the province of Saskatchewan, would like to see a larger share of federal revenue made available to the province of Saskatchewan, and we would very much like to support that part of the motion as it stands on the Order Paper. However, when the Provincial Treasurer sees fit to move an amendment to an amendment, claiming credit for something that has never been done, I don't know how you could expect the Opposition to support it. When the Provincial Treasurer stood up in his place, he reminded me of 'Harpo', whom you see on television occasionally playing his harp, and every now and again he toots his horn. Well, of course, the Provincial Treasurer doesn't carry a harp, but he spends most of his time tooting his own horn, and then he wants us to support some dream that he and his colleagues have had, for some particular time, as to their treatment of the municipalities.

I think it is fairly obvious from the remarks and the comments that are made at the annual conventions of both urban and rural municipalities in the province of Saskatchewan, that our municipal people are not happy. They are not satisfied, and I do not think they will be satisfied until such time as unconditional grants are made available to them. A lot of malarky emanated from the Provincial Treasurer, who claimed he was not prepared to speak in this debate, but I notice that he picked up a file off his desk and was fully prepared to speak in the debate. He had all the arguments which he had been gathering up for the last several years – not in his office, but on his desk.

Hon. Mr. Fines: — Mr. Speaker, may I, on a point of privilege point out that I asked one of the page boys to go down after the debate started, and bring up my file on this.

Mr. Klein (Notukeu-Willowbunch):

You were prepared, then?

Mr. McDonald: — It matters not. But the thing is that the Opposition are not provided with the same facilities, even to keep a file — even if we had one to keep. My office compared with the office of the Provincial Treasurer, or the office of the Premier, or the office of any Cabinet Minister, would hardly hold all the files I would like to keep. As a matter of fact, I often find it embarrassing, when anyone comes to see me in my office, because there is hardly room for two people in it. A year or two ago I had an extra filing cabinet added to the equipment in my office, and now there is hardly room for me in there, let alone anybody else, or a file. I only wish that the Opposition were in a position where we could send the page boy out to bring in our files, but the Government officers are so niggardly that they will not supply the Leader of the Opposition, or the members opposite . . .

Mr. Speaker: — Order! The hon. Leader of the Opposition is out of order.

Mr. McDonald: — I may be, but I am answering the Provincial Treasurer, and I intend to continue to do so. We haven't the facilities at our disposal, because of the niggardly attitude of the Government officers. Now, in order to get the information that is necessary to answer his — you could hardly call it an argument; but to answer the statements that emanated from the Provincial Treasurer, it would be necessary for me to get my file from my home. In order to do that, Mr. Speaker, I want to beg leave to adjourn the debate.

(Debate adjourned)

ABOLITION OF CAPITAL PUNISHMENT

The Assembly resumed, from Tuesday, March 17th, the adjourned debate on the proposed motion of Mr. Neibrandt (Yorkton):

“That this Assembly, believing that capital punishment is incompatible with Christian concepts of justice and the value of human life, and recognizing that the death penalty has not, in practice, had the deterrent effect for which it is impose, recommends that the Government of Saskatchewan request the Government of Canada to abolish capital punishment.”

Hon. J.H. Sturdy (Assistant to the Premier):

Mr. Speaker, my reason for adjourning the debate on this resolution was because I wished to introduce an amendment, and it was not to attempt to add to the very fine presentation made by the hon. member for Yorkton (Mr. Neibrandt). I do wish to congratulate him on the thoughtful and convincing argument he presented to this House for the discontinuance of capital punishment.

With respect to my intended amendment I felt that, pending a decision on the part of the Federal Government to discontinue capital punishment, those provinces which express by resolution their wish to discontinue capital punishment should be relieved of the responsibility of carrying out

the death penalty. However, I was persuaded that this amendment would introduce a new principle to the resolution, and I am quite sure that you would have declared the amendment out of order, Mr. Speaker. So I requested permission to introduce a resolution to this effect and my main argument in support of that resolution will be, in respect to capital punishment, that it has deleterious effect on our whole corrections program. It has an incalculably injurious effect on the young, impressionable and reformable inmates of the penal institutions in which capital punishment may be carried out in our Province.

It seems to me that the purpose of justice is to protect the individual and society in general. It is my belief that the retention of the death penalty actually impedes justice. It would appear to do this in two ways. First, juries are increasingly reluctant to bring in a verdict of guilty if that verdict carries with it a mandatory death penalty. Very few convictions on first degree murder have been made in Saskatchewan over the past decade, and there have been no hangings in this province since 1947, praise be to God!

It does seem to me that this reluctance on the part of juries to bring in a verdict that would result in the death sentence would indicate that our jurors and our people generally have a moral concept and a sense of social responsibility that negates that of the philosophy contained in the Criminal Code which subscribes to capital punishment for murder offences. Moreover, the fact that jurors are reluctant to bring in such a verdict may result, and undoubtedly it has resulted, in the rather casual treatment or acquittal of those who are accused – accused, who may be in great need of prolonged observation under custody, in need of the best type of treatment they can get in our institutions; accused, against whose acts society may require protection. Instead of that they are apt to be realized with a comparatively minor sentence before any degree of rehabilitation treatment can be given to them.

Secondly, although under certain circumstances the courts may be required by law to impose the death penalty, the commutation of the sentence is in the hands of the Government administration. The fate of life and death thereby lies in the hands, not of the courts in which discretionary powers are vested, but in the hands of the Federal Cabinet. It is significant that, since the election of the present Conservative government in Ottawa about three years ago, 19 of our 24 death sentences were commuted to imprisonment. It seems to me that even that indicates that the majority of the members of the Cabinet at least are opposed to the death penalty. I venture to say that, if a free vote were held in Parliament after a full and free discussion on this question of capital punishment, Parliament would vote against the retention of capital punishment. As you know all the resolutions that have been brought in opposing capital punishment are limited to one-hour debate and so they are talked out before a vote is taken.

We have come a long way in the British Empire and in the Commonwealth since 100 years ago when Nicholas white, a boy of ten years of age, was hanged in Old Bailey in London for having stolen a “tuppence worth of paint.” But it does seem to me that it is only by precept and example, by doing the very best we can and the most we can in our little corner of the world, that we can hope ultimately to achieve the security and the dignity

It seems to me that Saskatchewan, with its Bill of Rights, its many social reforms and also the tolerance and the deep sense of social responsibility of its people, has a creditable record in this regard. Throughout the world many evil and savage customs have gone by the board and I am sure that Saskatchewan will still show the way even in the matter of voting for this resolution. Why must we be hag-ridden by this ancient, immoral and savage practice of capital punishment which degrades those who practise it and destroys without hope of redemption those on whom it is practised?

Mr. A.C. Cameron (Maple Creek):

Mr. Speaker, I have one or two comments I would like to make on this resolution: "That this Assembly, believing that capital punishment is incompatible with Christian concepts of justice and the value of human life, and recognizing that the death penalty has not, in practice, had the deterrent effect for which it is imposed, recommends that the Government of Saskatchewan request the government of Canada to abolish capital punishment."

I think to date we have heard two speakers on this resolution. I am not prepared, in my assessment of it, to accept the statement that I have heard and the reason behind it, first, that it is incompatible with Christian principles; or secondly, that it has not had the deterrent effect for which it is imposed.

I recall, when we thought of change in the Time legislation in the province, we set a Committee of the House to work. They discussed it for a number of years; it was put to a vote of the people and then brought back to the Committee and discussed again. In spite of all that was done, we face the ultimate now of abandoning all that effort. When it came to the matter of adjusting liquor outlets, a Committee of the House was appointed to study the matter, both in this province and in others, to see what could be done about it. In the matter of adjustment of municipal boundaries, a Committee has been set up that has been working for some two years, giving study to this whole field. I cannot feel that I, as an individual member of the Legislature, can come into this House and, after hearing one or two speakers, say I am in a position to vote as to whether or not I want capital punishment. We have not sufficient information laid before us.

I did, the other evening, go to the Library to see what I could find about the pros and cons of this particular issue, and I thought perhaps the greatest authority I could get that would be most unbiased would be the report of the Joint Committee of the House of Commons and the Senate in 1956. They looked into this whole problem or issue of capital punishment. I was interested to see what their recommendations were. They brought their recommendations to the House of Commons, and I want to list some of the things which I took from that report in regard to their recommendations.

The first thing this Committee stated was that all the Attorney Generals in Canada, with the exception of Saskatchewan, support capital punishment. So there we have a group of responsible officials every one of whom is in agreement except the Attorney General of Saskatchewan. They think that it should be retained.

Then I read to see what the law enforcement officers had to say on this issue, as stated in the report of this Joint Committee. It said:

“Law enforcement officers claimed it was a deterrent to professional criminals carrying weapons and committing crimes of violence. They said that in itself was a tremendous deterrent not only to murder, but to other crimes, and to the protection of the police force, as such, because professional criminals would not be carrying firearms to the extent that they would otherwise.”

Then I turned to Page 14 of the report and I read there:

“The Committee has concluded that capital punishment does exercise a deterrent effect which would not result from imprisonment or any other form of punishment.”

Then it says further:

“The Committee reached the conclusion that it is in the public interest to retain capital punishment.”

Regarding the risk of irrevocable error that was spoken of by, I think the mover of the motion, I checked to see what they thought about that, and I was surprised to find in their report that they state:

“There is no known Canadian instance of the execution of an innocent person.”

I thought that was a tremendous record for the Dominion of Canada, a tremendous record for our courts and juries in assessing evidence. It says:

“The Committee recommends that the death penalty should be retained for the crime of murder.”

Now that is as much as I have read about it; but I don't set myself as an authority on this. Neither do I think that I am in the position, in an hour's debate in this Legislature, to decide that we should do something on a major issue of this proportion. I feel something as the Minister of Social Welfare did, when he was discussing the Liquor Bill. He said he was a humble man and he was prepared to accept the findings of those who had looked into the matter. He said: “Who am I to question the wisdom of the Committee in the findings which they recommend to this Legislature? Because of that I intend to support it.”

I feel identically as he felt then. The only thing that I have done is go to the authority of the Committee that was set up in the Senate and the House of Commons, to see what they had recommended to the Government.

And I say with him: Who am I to judge the wisdom of these people? For that reason I shall not support the motion.

Hon. Mr. Sturdy: — May I ask the hon. member a question? Is this all the study on this subject of capital punishment that he has made during his lifetime?

Mr. Cameron: — Mr. Speaker, in answer to that, I have read a good deal about it, but I am only an individual, the same as you are. You may have had far greater experience in the field of corrections programs and so forth than I have had; but even the House of Commons and the Senate did not feel qualified in this matter, without setting up a Joint Committee to make a thorough study of it, to take evidence of pros and cons, to visit Great Britain and the other nations of the world, to examine the situation in all of Canada, and then to arrive at an assessment of it. They, for the time being, could not recommend that capital punishment be abolished, and I say if they cannot recommend it, I am prepared to go along with their recommendation at this time.

Mr. A. Loptson (Saltcoats):

Mr. Speaker, in view of some aspects of this matter, I would beg leave to adjourn the debate.

(Debate adjourned)

SECOND READING

RENEGOTIATION OF CERTAIN MINERAL CONTRACTS

Moved by the Hon. Mr. Walker: “That Bill No. 92 – An Act to facilitate the Renegotiation of Certain Contracts respecting Mineral Rights” be now read the second time.

Hon. R.A. Walker (Attorney General):

Mr. Speaker, in rising to move that this Bill No. 92 be now read a second time, I would like to take a few minutes of the time of this House to go back somewhat over the history of the problems with which this bill is designed to cope.

Hon. members will recall that after about 1948, a tremendous amount of impetus was given to the exploration for oil and gas in this province. About 1948 and 1949, for the most part, the major oil companies obtained standard 10-year leases (as they are commonly called) on most of the privately-owned mineral rights. Approximately 80 per cent of the mineral rights in this province are, of course, owned by the Crown. Of the 20 per cent that was privately owned, the majority of it is owned by the Canadian National and the Canadian Pacific Railways, and the Hudson’s Bay Company. The remaining approximately 10 per cent is owned by private individuals, and a large part of this is owned not by the occupants of the surface, but is owned by land companies, by owners who acquired the mineral rights at the time of homestead and who did not pass them on to their successors in title.

Most of the problems which have arisen in connection with claims of fraud in transactions involving mineral rights have to do with a part of this 10 per cent, which is, as I said, owned largely by the occupants. In 1948 and 1949, most of this was already under lease to major oil companies for a 10-year period. However, this did not prevent those interests who were concerned about acquiring title to mineral rights from approaching farmers to acquire, or try to acquire, the reversion or the residue of their interests.

It has been said that, at this particular stage, the farmers did not know that they had any mineral rights, and it has been suggested by a member of this House that the fact that, in 1945, The Mineral Taxation Act was passed imposing a three-cent a tax on mineral rights went a long way to convincing farmers that they should make improvident deals for the disposition of their rights. This statement, of course, is absolutely absurd, and I am not surprised that the hon. member for Cannington (Mr. McCarthy) applauds the statement. He applauds many statements which are patently absurd.

Mr. McCarthy: — Because it's true.

Hon. Mr. Walker: — The fact of the matter is that, up until the time the farmers received tax notices under The Mineral Taxation Act, many of them were not even aware that they owned their mineral rights. Certainly those who were aware that they owned their mineral rights were not aware that they were worth anything; they just assumed that they were not worth anything. The fact that it was a taxable asset ought to have convinced almost anyone that he was in possession of title to something of tangible value. I cannot think of any way of giving the impression that an asset has tangible value than to impose a tax on it. Surely, I cannot think of any better way of convincing people than to have them find that it is a taxable asset. The very fact that for 50 years there was no tax on privately-owned mineral rights in this province may have, and, I suggest, quite likely did have, the effect of contributing to the idea that they weren't worth anything anyway.

The fact that these taxes were levied resulted in tax notices going out, and resulted in farmers knowing that they had mineral rights, and the fact that they had to pay this tax in order to retain these mineral rights convinced most of them that they were worth something. The fact of the matter is that most people have paid the tax, and certainly no one would pay the tax unless he was aware that the property had value.

Mr. McCarthy: — It was usually a part of a rental agreement.

Hon. Mr. Walker: — That's right; it was part of a rental agreement in many cases. It was paid out of the money belonging to a farmer, on his lease. The farmer paid it out of the money that he would have received as rental for his lease.

Now, in 1949 and 1950 many farmers, knowing that they had leased their mineral rights — and if there was anything to be found on them it

would be turned up by the original lessees – and evidently feeling that the residue of their interest was small and likely not to be worth much, made deals with oil companies to assign this residue for a very small consideration. This cannot be said to be fraudulent. If, as some of my hon. friends opposite pretend to believe, these mineral rights are not worth anything, then every cent you get for them you get for nothing. On the other hand, if they are worth a great deal then nobody would sell them for the price for which they were commonly sold in those early years. So the validity of the deal, morally, is perhaps judged, today, not upon the standards which applied in those days for determining their worth, but rather on the hindsight of the individuals who made the deal. However, even though a quarter-section of mineral rights, which may ultimately turn out to be \$1,000,000, has been sold for \$1 or \$160, this kind of agreement is still enforceable and a perfectly proper agreement so long as it is entered into by both parties with full knowledge of the terms of the agreement, so long as both parties had the opportunity of knowing what they were doing.

The fact is that, in 1949 and 1950, some 1,100,000 acres of these freehold oil rights were acquired by interests in Calgary in the name of the Prudential Trust Company. It is a fact, as was clearly demonstrated before the Royal Commission, that the Prudential Trust company itself had no beneficial interest in either the land or how it was acquired; it acted merely as a registry for the purpose of registering title to these rights, providing an opportunity for the real and beneficial owners to transfer these rights among themselves without having to resort to the registration system of the Provincial Land titles Office. And there was some justification for them taking that attitude, because at that time it was not clear that the Land Titles Office could register a dividend interest in mineral rights and this was the only way by which parties could record the fact of their ownership and interest in the mineral rights.

Having acquired these mineral rights in the name of the Prudential Trust Company there was very little (if any) complaint for nearly two years; and certainly there was none raised in this House in spite of the fact that my hon. friend from Maple Creek (Mr. Cameron) now tries to create the impression that he did raise it . . .

Mr. McDonald: — That is not true.

Mr. McCarthy: — Read the records of the House.

Hon. Mr. Walker: — The fact of the matter is that there is no record of him ever having raised it in this House, nor in the press clippings which he referred me to when he was speaking in this House recently. The fact is that about two years later, or in about 1952 – and incidentally, Mr. Speaker, I may say that one of my hon. friends said he raised it in 1951 – if he will read the report of the Royal Commission he would have found, of course, that the great bulk of these transactions predated 1951.

The fact is that about 1951 and 1952, the beneficial owners of these mineral rights appeared then on the farmers' land to ask them for their duplicate Certificates of Title. At this stage many people took a second look at what they had done, and at this stage, of course, much of

this land had become valuable. The oil development of this province was then progressing at a very satisfactory rate. Some complaints commenced to be made. The occasional farmer launched legal proceedings against the oil companies for the restoration of his rights.

I want to make it very clear, Mr. Speaker, that so far as the public authority or the Government of this province is concerned, it is its responsibility to provide a means of seeking and getting redress to any person who is defrauded or exploited in contracts. This, of course, is done. Every person who has a complaint that he has been defrauded has access to the courts, and the courts are a creature of the Provincial Government. This is the proper place to seek redress, and when these complaints were made to the Government, this Government recognized that some people, because of lack of funds or other reasons, are not able to contest legal cases with great oil companies where large lawyers' fees are involved.

So, in order to protect those people who said "We cannot go to court because even if we do win, the oil companies will take us to the Supreme Court of Canada and even to the Privy Council to have the decision reversed"; this Government did something which is extraordinary in order to assist people who claimed that they had been victimized and defrauded. This Government did something which is unique, which has not been done before and has not been done anywhere else that I know of. The Government agreed to supply the funds for litigants, who found that they had a case, to take their case to Appeal, if necessary. This offer, I may say, has borne some fruit. The Government, of course, cannot take farmers against their will and force them to litigate their claims. All we can do is offer to pay if they take the initiative, and this the Government has done.

In addition to that, in 1957, when it appeared as though some of these legal claims were in danger of becoming outlawed, the Government did another extraordinary thing for the aid and benefit of this group of people, namely, it extended the period of time set out in The Limitations of Actions Act, extended the time during which aggrieved persons might launch their actions. This, I say, is also unusual, if not unique. It has never been done before in this province nor any other province in Canada that I know of.

These two things were about all that the Government could do, apart from taking the claimant by the scruff of the neck and taking him into court and making him sue; and this Government has done these things willingly when they were requested to do so.

Recently, however, further submissions have been made to the Government. As recently as 1956 a proposal was made to the Government of Saskatchewan that we should now pass legislation simply outlawing entire classes of agreements, simply setting them aside by legislative order, by legislative fiat. This, Mr. Speaker, would be a very unusual exercise of legislative authority. Normally, we rely on civil courts to regulate the rights of people where they concern only the rights imparted by contract and we rely on the courts as a tribunal for redress where fraud is practised. But we had this suggestion, and it was put forward, I suggest, in good faith, sincerely and seriously, by a group known as the Mineral Owners' Protective Association.

At this stage I want to express the gratitude of the Government for the leadership and the interest which this organization has given in helping to solve this problem. I must, on my own account, express appreciation to their executive and to their counsel for the great help that they have given to us in meeting with and attempting to solve this problem. This was a proposal which they put forward, rather hesitantly and reluctantly. They agreed with the wisdom of making an investigation of all of these classes of transactions to see whether or not we could find justification for sweeping legislative enactment.

Accordingly, in the spring of 1957, a Royal Commission was set up. This Royal Commission consisted of the Hon. Mr. Justice R.T. Graham, Dean F.C. Cronkite, Q.C., and Mr. Thomas Lax, LL.D., a farmer in the province of Saskatchewan. Before going on to discuss the work of that Commission I want to say how fortunate we were in this province to be able to have got three such eminently qualified and impartial observers to hear the evidence and to write a report. I don't think we could have found three people who are more keenly aware of the problems of Saskatchewan, who are more interested in seeing that justice is done in public, as well as in private, matters. These people did a conscientious job extending over a period of a little over a year and a half. They actually communicated with every farmer in Saskatchewan who had had any dealings with any of the Prudential group of companies. They circularized some 4,136 farmers who had had dealings with this company, and they analyzed the results of this inquiry.

As a result of their circulars they discovered that there were 4,136 contracts involving 4,033 people. Each one was studied, and as a result of those studies they were able to say what the reaction of these people was to the transactions that they had with the Prudential Trust company or its representatives. Of that number, 696 responded to say that they had no complaint whatever, no complaint at all, with the treatment which they had received from the company, 2,400 responded to say that they had a complaint. I won't attempt to discuss the merits of the complaints; but, of course, it is evident when you look them over, that some of them are inconsistent with each other and some of them are rather dubious of their existence at the time of entering into the contract. But by and large it can be said that, in a majority of cases, there was dissatisfaction now with the negotiations which had led up to these contracts. All hon. members have a copy of the report of the Royal Commission and I do not, therefore, intend to go over the report in any detail, because I am sure that all hon. members have read it.

After circularizing these people, the Commission then summoned 52 as a sample of all the farmers concerned, and these 52 appeared at the rate of two or three a day before the Commission and gave their evidence to the Commission. In addition to that, some 10 other owners of mineral rights voluntarily came before the Commission and were heard. The Commission, after hearing their evidence, after calling in many of the landmen and the agents involved, after questioning the principals in Calgary and other places, came to some recommendations. With regard to the question which the Government had specifically asked (whether retroactive 'blanket' legislation was a solution) the Royal Commission came unhesitatingly to answer in the negative. They said such action would, of course, run counter to the principles of freedom and sanctity of contract which are, in a large part, not only

fundamental to our system of law but also to our society and the complex of social and economic relations which it contains.

They said that they were not aware of any place, or of any precedent, in the North American continent where this kind of legislation was resorted to, to deal with a problem of this type. As a matter of fact, they said that if they were to make such a recommendation, they would have to find that there was consistent evidence that these contracts were conceived and perpetrated as a fraudulent scheme; and they said such evidence was lacking. In general it can be said that they found that there was no overall or uniform fraudulent course of conduct or oppressive course of conduct in these transactions.

The Commission went on (on page 64) to say that the evidence of some of the mineral owners seemed to supply strong evidence that there was fraudulent misrepresentation either of the active type or by suppression of the material facts. On the other hand, they said the evidence of other witnesses indicated no such thing. So, obviously, a blanket type of legislation willy nilly setting aside all these transactions would create more injustice than it would correct. I do not propose to go into detail about the recommendations of the Commission, but there were many other objections they took to this kind of proposal.

They point out that, in 1950 and 1951, during which years most of these transactions had been concluded, the landmen, in negotiating with the farmers, were not required to be licensed under the terms of The Security Frauds prevention Act as it was at that time. The Security Frauds Prevention Act is designed for the purpose of regulating the sale of securities, and that is really the only thing it is designed to do. There is no jurisdiction that I have been able to hear of (and I have made some inquiries) where The Securities Act is used to regulate acquisition of mineral titles from freeholders.

However, when this problem was raised in 1952 by people who began to complain that they had been unjustly and unfairly treated, the Government did explore around to see what might be done to give greater protection to farmers in this kind of situation. I point out that this is not a normal procedure for a government to follow; but in our interest and in our anxiety to see to it that the farm people were not exploited by 'city slickers' from Calgary, the Government did amend the regulations under The Securities Act to define a security to include a title to mineral rights. As a result, these brokers and their agents must now apply to the Securities Commission for a licence.

Hon. members might say that this might have prevented the situation if this had been done earlier. Well, of course, it is always easier to be wise after the event; but I suggest that this would not have had any airtight result. The fact is that, while we now require this, we can only impose a penalty where we hear of a salesman or a landman operating; and I had occasion, about two years ago, to hear a rumour, where I was unable to track down the identity of the person who was supposed to be operating; but there was a rumour that there was somebody operating in the Regina district. Of course, a check of our register showed that we had no one licensed and I issued a press statement, two of them, as a matter of fact, about a week

apart, warning the people of this area that no one was licensed at this time to engage in this action, and that the safest thing for the public to do was always to insist on knowing whether the person who approaches them does or does not, in fact, have a licence. Well, not one word ever reached the Government to the effect that someone was operating, but I happen to know, from advice that I have received from other people, that there have been mineral transaction in Saskatchewan in the last year or two by unlicensed people.

I have said so often, Mr. Speaker, that it is now almost, I am sure, reaching the stage of tiresome, tedious repetition that nobody can protect the public nearly as well as they can protect themselves, if they use a grain of common sense when dealing with visiting salesman and landmen. The most elementary principles of caution and prudence demand that you do not convey your homestead, you do not pay out your money, to a perfect stranger without at least inquiring about his credentials. It is inconceivable that it be necessary to keep repeating this warning and to hear that it is still being ignored. I know of no way that you can protect human beings from their own folly if they are not willing to take the most elementary precautions themselves.

I have already indicated that there are at least three things this Government had done, which neither of the adjoining provinces has seen fit to do to cope with exactly this same situation. And I must confess that the results have not achieved perfect justice by any means. If someone can suggest to this Government a better way of protecting the public against operators of this kind, we are interested in doing so; but, as I say, the success of almost any scheme requires at least some measure of sympathy and understanding from the public concerned. I don't say this in any spirit of criticism of the public. All I say is that the public has no right to complain when they don't take the most elementary precautions in their own interests.

Now, Mr. Speaker, I want to get on to the positive recommendations. There is one other recommendation that I would like to refer to which was made by the Commission, or at least one other comment that they made. They did make the suggestion that the law be amended so that no one could part with his mineral rights without producing a certificate from some qualified person that this qualified person had explained to him what his rights were, and I suppose that, if this were applied to mineral rights, it would also apply to a man's home or his land or his farm, likewise. The Commission (and I agree entirely with their decision in this matter) decided to recommend against such prohibitory legislation. They just say that they suggest it might be worthy of some consideration.

The Commission goes on to say the reason they are against it is because it is an unwarranted and unjustified invasion of the rights of private citizens, and I think it would be. I think that I, certainly, would consider it an imposition if, before I could sell a quarter-section of land that I owned, or the mineral rights on a quarter-section of land that I owned, I had to take the document to the local bank manager or to the local lawyer and sit and have him explain it to me. And this is the kind of thing, of course, which is provided for wives under The Homestead Act – a privilege which husbands have never enjoyed and which, so far as I know, they have never claimed the right to enjoy.

So the Commission did not recommend this solution, and the Government concurs that it is more sweeping than is justified in the great majority of cases.

The Commission then tried to find some way of resolving these problems on an individual basis. Recognizing that there was no over-all or pat formula which could be applied to all cases, it was therefore necessary to examine into individual cases. The best way of settling these individual cases, of course, is still by reference to the courts, which are the tribunals especially created for this kind of thing; and the Commission and the Government still believe that this is the proper way for citizens to get redress when they have been defrauded or swindled. This is the proper way.

The Commission suggest that we might go perhaps even further in providing financial assistance to the public who wish to use these tribunals, and this legislation provides for us to supply legal counsel to assist claimants in preparation of their cases. This the Government is prepared to do and there again I say, this is a most unusual and far-reaching remedy, something which no government does for any class of people; but in this instance, since we are very much concerned that the citizens of this province and the people who have built this province and made this province what it is, and feeling that some of them may have been swindled, it has induced the Government to take extraordinary remedies to make amends or to make it possible for these people to get amends from the malefactors. So the Government is prepared to supply legal counsel to these people without the necessity of them putting up any money, if they can show that they have some reasonable grounds and hope for success in their lawsuits.

This does not solve all the problem, however, because there are still cases where witnesses are not available or their memories are not reliable, or where for other reasons an action in the court is not the remedy. So it is proposed that a voluntary re-negotiation Committee be set up, consisting of from three to five persons with competent legal membership, who are able to adjudicate upon and attempt to re-negotiate these agreements. We have reason to assume that the oil companies themselves would be anxious to have these possible claims settled, and as a price for getting the matter settled once and for all, it may be possible to have them voluntarily surrender some or other of their privileges under their agreement. This is something which a re-negotiation committee could attempt to do; and I would like to draw the attention of the House to the fact that this re-negotiation Committee is not envisaged as any sterile, sexless creature incapable of doing anything of consequence, because it is provided in the Bill that this Committee would have the power to recommend to the Legislature that specific agreements be amended by legislation.

Now if I can just illustrate how that might work. Suppose that someone convinces the re-negotiation Committee that he has a legitimate grievance against an oil company, but unfortunately his witnesses have died. He has neglected to bring his action during the normal period of six years, or even when he should have brought it right away, and so now his witnesses have died. It is no fault of his and we want now to try to assist him to get broad, general justice. If he can convince the committee that he has got a case but he cannot marshal enough evidence that

he could win it in court, in those circumstances this Committee will do equity rather than law. This Committee will attempt to do equity rather than interpret law and, if unable to get the consent of the oil company to a modification of their agreement, this Committee may very well recommend to this Legislature that the particular lease on the south-west corner of section 13, township so-and-so, be modified in this respect or in that respect.

Of course, in that even this Legislature would be acting as a court. I hope that that won't be necessary; but I say that it is certainly within the contemplation of the Government that, if someone makes out a clear and convincing case to satisfy the re-negotiation Committee of his rights, and the other part (or the oil companies) either brushes off with scorn and contempt the whole thing, we won't sit idly by. The Government will bring in legislation to implement this specific finding of the Committee, so that, while the Committee is not clothed with any specific judicial powers this Legislature may be asked to legislate to settle this judicial question.

Now, Mr. Speaker, there are other provisions in the Act which I could go on to discuss and enumerate, but I am hopeful that this rather unhappy situation which has resulted through an unfortunate combination of circumstances: first of all, that up to 1947 or 1948 nobody thought there really was any oil in Saskatchewan; there really wasn't any development in Saskatchewan, and most people, as I recall, including the Leader of the Opposition, got up and said that there wasn't any oil in Saskatchewan. You could hardly blame farmers for being misled by that sort of propaganda; and you could hardly wonder at them under-valuing their mineral rights when they had been told so often that there could not ever be any development in this province; there was not any oil here. Combined with that was the fact that there had not been any previous experience by which the bulk of our population had acquired some defence to this kind of slick talk, and thus this situation arose. Then, after it had developed, in most cases the farmer still thought he had 'rooked' the oil company, that there still wasn't any oil under there. Even though he got \$50 for a quarter-section of mineral rights in some cases, he still thought he had rooked the oil company out of \$50.

Then, when oil started to turn up in Saskatchewan, things started to look a little different, and, as a result of the passage of time, before the farmer decided he should take some action, in many cases he had lost the witnesses that he would have relied upon to take action. So, as I say, largely through a combination of circumstances and without any real fault on the part of anyone, this situation has developed, but this Government has constantly and deliberately tried to do something to prevent the farmers from being victimized. This Government has done the only things that have been done in western Canada to protect their farmers from this kind of victimization. And this Government is prepared to do even more, as evidenced by this legislation. I would hope that this legislation may meet with the unanimous approval of the House. I would hope that it will solve the problem, or at least indicate a solution to the problem, which may be further pursued.

We introduce this because we are sincerely and conscientiously convinced that we can do some good with this legislation and we, therefore, place it before the House on that basis.

March 24, 1959

Mr. Speaker, with those remarks I would like to move that Bill No. 92 be now read a second time.

Mr. A.C. Cameron (Maple Creek):

Mr. Speaker, this is something, of course, that may have far-reaching consequences. I notice the Attorney General took considerable time to go into the details of the proposed legislation. I was not aware that this particular Bill might be coming up today, and I would like to speak on second reading. For that reason, Mr. Speaker, I would ask permission to adjourn the debate.

(Debate adjourned)

The Assembly adjourned at 10:00 o'clock p.m. without question put.