LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
Third Session – Thirteenth Legislature
31st Day

Monday, March 30, 1959

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

On the Orders of the Day:

RESPONSIBILITY FOR CARRYING OUT THE DEATH SENTENCE

Moved by the Hon. Mr. Sturdy, seconded by the Hon. Mr. Bentley:

> "That this Assembly requests the Government to make representations to the Government of Canada, urging the said Government to relieve the Provinces of the responsibility for carrying out the death sentence, provided such Provinces have, by resolution of their respective Legislative Assemblies, expressed their opposition to capital punishment."

Hon. J.H. Sturdy: Mr. Speaker, in speaking on this motion requesting the Federal Government to relieve the provinces of the responsibility of carrying out capital punishment, I shall try to keep my remarks as non-controversial as possible in the hope, the rather vain hope, that I may attract two or three of the Opposition to vote for the resolution.

Mr. Speaker, during the past few days especially, you must have been very confused by the arguments put forth the by the Opposition. On the one hand they have pleaded eloquently for the all-powerful states; they have pleaded that the power of life and death over the individual should continue to be vested . . .

Mr. Speaker: Order! You must not refer to a previous debate.

Hon. Mr. Sturdy: Any remarks that I have to make, Mr. Speaker, have a direct bearing on this resolution and I am dealing with the general attitude and the general nature of remarks by the Opposition.

What I have said is that the Opposition has . . .

Mr. Speaker: The hon. Minister is out of order in referring to what speakers have said in a debate on a motion that has already been disposed of.

Hon. Mr. Sturdy: Well, Mr. Speaker, would you permit this – that, on many occasions not only in the House but outside of the House, I have heard the Opposition plead for the dignity . . .

Mr. Cameron (Maple Creek): Mr. Speaker, on a point of order . . .

Hon. Mr. Sturdy: If you object to it, all right. But they plead for the dignity of man; they plead for the sanctity of the human soul, and yet at the same time they will place the individual in the hands or the fate of an all-powerful government in the matter of life or death. I want to say that these mental gyrations of the Opposition are not strange; they shouldn't be strange to you, Mr. Speaker. They are in much the same position as many of the inmates in our penal institutions. They are . . .

Mr. Cameron: Mr. Speaker, on a point of order, I don't mind him going on about the attitude of the Opposition being like inmates of an institution if he so wishes, but it has no relationship to this particular resolution at all. We have not even expressed one viewpoint on it; we have not had an opportunity to do so. He is entirely out of order unless he restricts himself to this particular resolution.

Mr. Speaker: The member whose is speaking must confine his remarks to this particular resolution.

Hon. Mr. Sturdy: All right, I shall try to do that, but it will equally get under the skin of the Opposition, and their attitude in the past certainly justifies any statement that I can make.

In 1946, Mr. Speaker, this Government set up a Penal Committee under the chairmanship of Dr. Sam Laycock to investigate our penal institutions and to make recommendations as to how they might be improved, and as to how rehabilitative and correctional programs might be instituted; and in 1947 the report of the Committee was brought in. Under the previous administration our penal institutions had been under the jurisdiction of the Department of Public Works, on the assumption, I presume, that the buildings were more valuable than the inmates within the institutions. Now what did the Commission find? Well they found, among other things, that the gaols of this Province were merely custodial and punitive institutions, where the inmates spent days and weeks in repetitious, meaningless habits and also where they spent long hours of each day in abject idleness in the cell blocks of those gaols; and also where they spent, if they were refractory, time in solitary confinement on bread and water, and subject to punishment.

The Commission also found that there was no attempt at segregation in our gaols. The young, impressionable, easily reformable inmates freely associated with old criminally-hardened types with the result that very often, those young men, after serving their few months' sentence, left the institutions in a worse state, less socially responsible, more anti-social than when they entered the gaols. They found that our gaols, by reason of the association of young inmates with the older, hardened type of criminal, were virtually schools of crime.

The Commission found also, that the staff, particularly the guards, were hired on the basis of patronage and not on the basis of experience or qualifications for this particular type of job. They found also that the guards received absolutely no training in any corrective type of program; and the only thing they received was of a custodial nature, the use of arms and that sort of thing.

The Commission also found that there were no educational, no training or other types of rehabilitative program in our gaols. Our gaols were merely custodial, punitive institutions, based on the old outworn and savage premise that a delinquent was committed to a gaol to be punished. The concept of the Commission, and of this Government may I add, was entirely different to that. Our concept was that the delinquent, on being found guilty, was sentenced to gaol as punishment, and not to be punished. He was sentenced by the court to our gaols as punishment . . .

Mr. Foley (Turtleford): Did the Committee find anything in connections with this motion on capital punishment. I submit he is out of order and has been all along.

Hon. Mr. Sturdy: This motion is not on capital punishment. I am not speaking on capital punishment. I am speaking about rehabilitative programs that have been interfered with, and will be interfered with, by the carrying out of capital punishment in the institutions where corrective programs are in progress.

Mr. Loptson (Saltcoats):

My. hon. friend hasn't mentioned the resolution yet.

Mr. McDonald (Leader of the Official Opposition): He has been talking for 15 minutes and hasn't come to it yet.

Hon. Mr. Sturdy: Just because it gets under your skin, gentlemen, is no reason why you should interrupt me constantly. I said that the Commission's concept, and our concept, was that a delinquent was sent to our gaols as a punishment. He has his freedom taken away from him for a period of months, or up to two years. He was no longer deemed fit to associate freely in society because his behaviour had forfeited to him that right. Moreover, we believe that society has the right to ask and get protection from such a delinquent. Now all prisoners in our gaols are inevitably released after serving their sentence, and it is our responsibility that they are better trained to occupy a useful role in society; that modern science and sound penal programs have done everything possible on their behalf to remove the cause of their delinquent behaviour and to make them safer and better citizens.

Aside from the humanitarian aspect of this concept, isn't it just sound common sense to try to make a good citizen out of a bad citizen? Surely the Opposition can have no objection to that type of rehabilitative correction program.

What the Government has done in respect to the Commission's report can, I think, best be presented to the House by reading certain correspondence that we had with the Minister of Justice, Mr. Garson, back in 1956. This correspondence has been released, and it was dealt with in the press throughout Canada. I wrote Mr. Garson on February 8, 1956, to the following effect:

> "In 1946 the Royal Commission to investigate the penal system of this province included in that Commission's report the recommendation that the administration of our penal institution be placed under the Department of Social Welfare and that a program of correction be inaugurated.
>
> The nature of this program is set forward in the preamble to The Corrections Act of 1950:
>
> Whereas it is desirable that for the ultimate protection of society a juvenile adjudged to have committed a delinquency, and a person adjudged to have committed an offence, be examined with a view to determining, as accurately as may be, the cause or causes of the delinquency or offence, and that so far as is practicable every delinquent or offender be given such help, guidance, training and treatment, whether within or outside the correctional institution, as may appear most likely to remedy or correct the condition believed to underlie his delinquency or offence.
>
> A great deal of organization and considerable expense has gone into the development of a comprehensive corrections program in each of the three gaols for adult offences; a three-year training program for guards or group leaders has been in operation for the past three years. Academic, technical and trades training courses have been introduced. Professionally trained personnel to provide treatment and training have been employed and other steps tending to effect the reformation, rehabilitation and training of prisoners have been taken.
>
> Our experience in substituting a corrective for the traditional punitive approach to delinquency has been gratifying. The incidence of juvenile delinquency in Saskatchewan has dropped to the point where arrangements are being made to provide a smaller institution than the present Boys' School. Indeed, during the past two years the Saskatchewan Boys' School has been extensively used as a treatment centre for crippled children."

Mr. Loptson: Mr. Speaker, I wonder why the Boys' School has anything to do with this resolution.

Premier Douglas: Mr. Speaker, on a point of order, if he can't understand why, I think he should just listen and he will find out.

Hon. Mr. Sturdy: Mr. Speaker, I hope when you and I grow old that we are not visited by the three courses of the aged – irascibility, senility and talk.

> "Recidivism has been reduced and we have found it possible to discontinue the use of the Moosomin gaol, an institution for adult offenders. The general atmosphere of our gaols has greatly improved. This we feel is due to the inauguration of purposeful and dynamic corrections programs. Our gaols have been singularly free of disturbances which have plagued many penal institutions throughout Canada during the past few years. The great majority of our prisoners are reformable; many are first offenders and short-term cases, and by the application of sound principles of correction we are not only safeguarding the interests of society, but of the offenders as well.
>
> Since the custody of a prisoner sentenced to death, and the actual carrying out of the death sentence, is inimical to the corrective programs in operation in our gaols, we respectfully request that the Provincial authorities be relieved of this responsibility; indeed so great is the emotional disturbance of all impressionable inmates, both before and subsequent to the act of hanging that it is impossible to carry on a rehabilitative program. I am not in a position to assess the permanent injury done to young, impressionable and reformable prisoners.
>
> I would call your attention to the opinion expressed in the Archambault Report of 1938, Page 171, regarding this matter. Therein the Archambault Report had dealt with the damaging effects of carrying out capital punishment in a corrective institution. I respectfully suggest that a Federal penitentiary, by reason of its security facilities and the fact that its inmates are, in general, less reformable than those in the provincial gaols, is much more appropriate than a provincial goal for this purpose, and much less damaging in effect."

On February 14th, I received a reply from the Hon. Stuart Garson, to this effect:

> "I acknowledge your letter of February 8th with reference to the place where the sentence of death should be carried out. The present procedure has been authorized by The Criminal Code and any change could only be effected if the necessary amendments to the statutes were made by Parliament."

I wish you would pay particular attention to this paragraph:

> "I have noted your comments on the matter of carrying out executions in the provincial gaols and, without embarking in an argument on the matter I think it is fair to say that equally strong reasons could be put forward as to the undesirability of undertaking executions in the penitentiaries.
>
> As you know the whole matter of capital punishment has been under consideration by a Parliamentary Committee on capital and corporal punishment during the past two sessions of Parliament and the report is expected from that Committee in the present session. I consider that the question as to whether any change is desirable in the present method of carrying out executions should await the results of the Committee's recommendations."

I wrote him a week or two later, on February 27th, to this effect:

> "Dear Mr. Garson: Thank you for your recent reply to my letter, in which I indicated our Government's wish to discontinue using our provincial corrective institutions as places of execution.
>
> In your letter you mention that remedial efforts in the penitentiary program would be as subject to frustration as in our program, if executions were to be carried out in the penitentiaries. Your own interest in developing a sound corrective program for the offender will, I am sure, enable you to appreciate our present position.
>
> As an alternative to my earlier suggestion consideration might be given to the establishing of a central Federal facility for the purpose of carrying out a death sentence."

If the Federal Government did not wish to carry out the death sentence in the penitentiary then I pleaded with them to arrange for some central facility in Canada where the death sentence could be carried out without any deleterious result to young offenders undergoing rehabilitation training.

"Saskatchewan would be prepared to contribute to the operation of such a facility by paying per diem rates for inmates sentenced to death by the courts of this province. Other jurisdictions might be invited to do likewise. Since the facility would be a simple lockup for a small population, its capital and operating costs should not be high.

In giving thought to this matter there is the question in my mind as to the constitutional rights of the Province to determine the use of its institutions. Section 91 of The British North American Act converse upon Parliament the power both to make laws for the peace, order and good government of Canada in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Among the exclusive powers conferred upon Parliament under Section 91 are No. 227 – The Criminal Law, except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters; and Section 28 – the establishment, maintenance and management of the penitentiaries.

This is the Section I wish to deal with. Section 92 of the Act confers exclusive power upon provincial Legislatures which includes the establishment, maintenance and management of public and reformatory prisons in and for the province although the Criminal Code of Canada sets out certain requirements concerning the manner in which condemned persons are to be held in custody, there appears to be no legislative provision designating specifically what type of institution is to be used for this group of offenders – those condemned to death. The matter appears to have been determined by precedent only. It is something that grew up – this business of assigning to the provinces the responsibility for carrying out the death penalty. For instance, in old Ontario, every county had a gaol and the accoutrements for hanging people; every municipality had a gaol and hangings were carried out, in the very early days, even before The B.N.A. Act. of 1867, where the matter appears to have been determined by precedent alone.

> In some provinces executions are carried out only in county or municipal gaols; in others, only in provincial gaols. Under Section 92 of The British North American Act I should think that a province, in its administration of correctional institutions, might choose not to establish facilities for the pure custody of condemned persons in the manner required by the Criminal Code. It might omit provision for the carrying out of the death sentence, as has already been done in our Regina gaol, where we dismantled the hanging facilities there many years ago. The reformatory institutions in the province of Ontario, for example, do not carry out such facilities. My understanding is that while Parliament may establish the Criminal Law procedure, the Provinces have exclusive jurisdiction in determining what activities, other than custody, are contained in their institutions. We think that if our institutions are devoted exclusively to rehabilitation, to correction programs, we have the right under The British North American Act to state that that is the extent to which our gaols will be used.
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> I recognize that this is a constitutional question. It is likely to be highly involved and it might be desirable to refer it to the courts for decision. I shall be pleased to have your opinion both as to this question and to the suggestion contained in paragraph 2."

That is where I recommended a central place in the Dominion of Canada where the very few criminals condemned to death would be hanged each year.

I received a reply, and this is the last correspondence that I will deal with. This is a reply dated March 5th, from Mr. Garson:

> "Thank you for your further reference of February 27, 1956, to the issues raised in your letter of February 8th" (that was my first letter). "You have chose an inappropriate time to raise this issue. The joint Committee of Parliament on capital punishment, which has been sitting for the past two years, is about to be reconstituted and to prepare and present its report to Parliament at the present session. It is important that the question as to whether capital punishment should be retained or abolished should be considered on its merits, and that the Committee and Parliament's consideration to this question should not be, in any way, prejudiced.

> If this report were to recommend, among other things, the abolition of capital punishment and if such report were adopted by Parliament, the issue which you now raise would cease to exist. Meanwhile, however, you and I can proceed now to consider the issue as to whether the Saskatchewan Government will continue to be responsible for the execution of capital punishment in Saskatchewan; we can consider it only upon the assumption that the joint Committee will recommend the retention of capital punishment and that Parliament will accept and set upon such reports. In my view it would be highly improper for use either to make such an assumption, or in any other way anticipate the nature of the Committee's report.
>
> I must therefore adhere to the position which I have already taken – that we cannot consider the issue which you have raised until after the Committee's report has been made and considered and disposed of by Parliament. In the meantime, however, we will give consideration to the legal points which you raised in your letter of February 27th, and be prepared to dispose of them promptly if and when it becomes necessary and proper for us so to do."

As you remember, Mr. Speaker, the report of the joint Parliamentary-Senate Committee on capital punishment was submitted to Parliament on June 27, 1956. In my humble opinion the weight of evidence in that report favoured the abolition of capital punishment, but evidently the Liberal majority on the Committee did not think so, and so capital punishment was retained.

Now the question was raised by the Government (that is, this question of the legal points) as to whether the Province could be compelled to carry out capital punishment in one of its corrective institutions, but that has not been answered by Mr. Garson to this day. It is still up in the air. Also the Department of Justice has yet to give a decision on the question as to whether they are prepared to establish a central facility for the execution of condemned criminals in Canada.

I have not much more to say on this except to make my final plea for the living. I think that the scores and scores of young men and older men who are undergoing corrective training in our institutions, training designed to turn them out to be better men than they were when they entered those institutions – and they are receiving the very best that medical science can give them; experiments are being carried out by the leading psychiatrists of this province in our institutions. Many of them have received basic education; they can now read and write; they have been

entirely illiterate when they entered those institutions; and many of them, for the first time, have a trade; they have been trained in any one of the numerous trades programs that are provided in our institutions; they are better able to go out and play a useful role in society, much better than when they entered it.

I claim, Mr. Speaker, that, in view of our experience in the field of correction over the past several years, it is damnable and criminal to have these programs disturbed by the act of hanging being carried out in our institutions.

Fortunately for us, there has been only one hanging since 1947; but there was one case, as you are all aware, back in 1956, where the man was condemned by the courts of this province to be hanged.

Fortunately, he was reprieved later on by the Government of Canada, but, during the short time that that man remained in the institution at Prince Albert until his appeal had been granted, there had been serious disturbances, mental disturbances, among, particularly, the younger and impressionable inmates of that institution. I am told, and I believe, that this ancient savage custom of hanging that man, of placing him in the death cell with the death watch imposed and arrangements made for his hanging, had a very serious effect indeed on the fine staff that is operating in that institution; and because I make my plea for the living, I move, seconded by the Hon. Mr. Bentley, the resolution which appears under my name on the Order Paper.

Mr. A.C. Cameron (Maple Creek): Mr. Speaker, I beg leave to adjourn the debate.

(Debate adjourned)

SECOND READINGS

RE-NEGOTIATION OF CERTAIN MINERAL CONTRACTS

The Assembly resumed from Tuesday, March 24, 1959, the adjourned debate on the proposed motion of the Hon. Mr. Walker:

> That Bill No. 92 – An Act to facilitate the Re-negotiation of Certain Contracts respecting Mineral Rights, be now read the second time.

Mr. A.C. Cameron (Maple Creek): Mr. Speaker, when I asked leave to adjourn the debate on second reading, I mentioned at the time that I did so because this Bill will have some far-reaching effects in the undertakings set out in the various clauses.

The Attorney General pointed out that this Bill is the result of recommendations of the Royal Commission into certain mineral transactions. You will recall, of course, that the Royal Commission investigated only certain mineral transactions of one particular trust company. I am please to note – at least it is my interpretation of the Bill – that it is broader than that; it will cover any farmer who feels that he has a claim against any company in the matter of obtaining his minerals. Therefore it widens it beyond the mere company that the Royal Commission investigated.

There were one or two statements that the Attorney General made on which I wish to comment. He said that the public has no right to complain, when they don't take the most elementary precautions in their dealings. To some extent I believe he is correct; but I would like to point out that this phase of operation in the leasing or selling of mineral rights was not a matter of taking the most elementary precautions; it was a matter of dealing in forms and in contracts that were very intricate, and which were changed from time to time, and thus led to a good deal of confusion. I think it is rather late in the day to talk about people not taking preliminary precautions, and then crying because they find themselves in difficulty.

I want to take a moment just to outline some of the complications that the farmers face. The leases first were in this area which the Royal Commission investigated during this period, and a great number of leases had been made with individual farmers who owned their mineral rights, and who had leased their rights at approximately ten cents per acre for a period of approximately ten years. There was included in that lease contract, also, a clause that said that "in the event of production, the owner would receive a 12½ per cent royalty." By 1950, many of the freehold rights had been leased, and were subject to those conditions, on which the farmer granted the lease, and leased his mineral rights at ten cents an acre, and in the case of production of oil, 12½ per cent royalty. That is a comparatively simple contract.

Than the companies who had rented these minerals, decided they would like to have some share in this 12½ per cent royalty that the farmer received under the former lease, in the event that oil was discovered. They proceeded to draft a certain contract which would secure for them a half-interest in the farmer's 12½ per cent royalty, which was payable under the then existing lease. When the companies decided to do that – to make an effort to obtain a half-interest in the farmer's 12½ per cent, it meant coming forth with a new contract, and a contract that was far more intricate to interpret. In order to secure a half-interest or their share of the farmer's 12½ per cent, they thought it necessary to take an actual transfer of title to their half-interest in these mineral rights of the farmers. Prior to that, it was a lease or rental contract. They wanted to secure title to the half-interest in this 12½ per cent, and in order to do that, the contract had to call for a transfer of this title for their half-interest in the farmer's mineral title.

The second document – to transfer it to ensure the half-share payable under the present lease – gave rise to another form called a

'form of assignment'. So, in order to attend to it legally, there had to be a new contract drawn up, and a new form of assignment which would give the companies the right to secure title to one-half of the farmer's interest in the minerals. Now, the company and the farmer, under that contract, would become joint owners. Well, then, if they became joint owners, the company felt a decision should be made in order that some arrangement could be made with the farmer to carry on the lease contract after the term of expiration. In other words, if it was rented for ten years, they should secure a half-interest to the rights of the farmers, but they would want the contract for a longer term than ten years. The decision was made to secure, in addition to the rights to the title, an option, so that they could renew the lease again at the end of 10 years. So you can see something of the complication which developed. First, a simple assignment or lease becomes a contract, with the companies taking a half-interest in the farmers' royalty rights. Then, on top of that, to secure title to them – a half interest in the titles, then to secure, in addition to that, an option which would secure the right for them to continue the present agreement after it had expired. They were to acquire a new gas and oil lease upon the expiration of the existing one. They wanted the length of time changed from ten years to approximately 99-year lease. That takes quite a complicated legal document to do that.

Then, too, they found that, in this renegotiation to get title to a half-interest in the farmer's mineral rights, they did not ask the farmer at the time for a duplicate title of certificate to their half-share. They felt it could be done by registering a caveat against this particular land, and thus, by registering a caveat and transferring it to this holding company, once the rights were purchased by the individual companies, they could go to the Land Titles Office with the caveat, and if the title was deposited there, a transfer could be made without even notifying the farmer. In many instances that was done, because there was nothing in the law to prevent it being done; file a caveat, and then after transferring it to the company, they would secure title by going to the Land Titles Office and having the title transferred.

Many farmers, because of this, found out, years afterwards, that they had lost title to their minerals. In order to go over all these leases, and to reassign them, and secure their half-interest in the farmers' right, they went to the brokerage firms, and the lease brokers set out doing this for them. They, in turn, set up landmen to go out and contact the farmers, and get these contracts changed from a lease rental to a half-ownership, and all the necessary transfer involved. Then they had a staff to search the Land Titles Office in the districts where the companies held rights; where the duplicate title was impounded, the transfer was registered right in the Land Titles Office. As I said a moment ago, there was nothing in the law requiring the Land Titles Office to notify the land-owner, if the document was registered. That lead to considerable confusion.

Then the Commission found that these landmen, when they went out to secure these new contracts from the farmer, in most cases acted as commissioners themselves; and that only in a few cases was any attempt made to administer any sort of oath in support of statements contained in the form of affidavits. In many cases requirements of The Homestead Act

were not properly complied with. The husband was present in many instances while the Justice of the Peace questioned the wife in regard to The Homestead Act, which, of course is contrary to The Homestead Act. They said many farmers thought this was some sort of a lease agreement, the same as they held in the first instance. They thought it was an option to lease their minerals rights after the expiration of the ten-year term, which they had in the original contract. Others thought it was an interest in minerals other then gas and oil, and, therefore, you could see the confusion which existed throughout the province. I am not going to go into the pros and cons of this, but I thought this phase of it should be made clear.

The Royal Commission said there were instances of fraud and misrepresentation because of the huge amounts of land involved; because of the amount of money invested by certain people who where innocent persons to this; they felt that any law found in any of these contracts would be very, very questionable, to do such a thing. So they suggested that this Board be set up to voluntarily negotiate new contracts with the farmers who felt that, through misrepresentation or fraud, he had lost his rights to his minerals.

I think the Attorney General was correct when he said it is not a normal measure, a Bill such as this. But he said he was interested, in this Bill, to see that farm people were not exploited; that that is the purpose of this Bill. I say, Mr. Speaker, we welcome this Bill, because it may accomplish that; but I would say that it is a very belated interest in seeing that the farm people are not exploited. In fact, it is just about nine years too late! He remarked that hindsight is better than foresight. In this case it is evident to me that there is very little foresight.

The Attorney General said, likewise no one had raised the issue in this House about warning the farmers, or doing something to protect the farmers. He said, "I could bluff the people of Maple Creek, but I couldn't bluff the people of this Legislature," when I said that we had repeatedly warned, and pleaded with, the Government to do something over a period of years which would help the farmers to know the danger inherent in these intricate contracts.

I am not going to speak of what I said, because he said there was no record in this House to verify that statement. Mr. Speaker, many statements are made in the Legislature that are not in the particular House proceedings, because it might be on Bills, such as we are discussing today; it could be in Committee of the Whole; it could be on any event . . .

Hon. Mr. Walker: This is on the records.

Mr. Cameron: But to say that it isn't mentioned in the debate, that there is no record of it – I want to show you something that is on the records, pertaining to the Opposition, and the remarks which they made at that time.

Hon. Mr. Walker: I referred to your remarks.

Mr. Cameron: I mentioned before that I have taken more abuse than anyone else, and that the Opposition had repeatedly urged the Government to do something about this matter.

Opposition Members: Hear! Hear!

Mr. Cameron: Those are my statements, and I want to show you. I refer back to 1952. It does not make much difference to the order, because I just want to point out some of the things that were said. Here is one, where the late member for Souris-Estevan was speaking, about the mineral and activities on land in this particular area.

Hon. Mr. Walker: What was the date of that?

Mr. Cameron: The date is March 15, 1952.

Hon. Mr. Walker: It was all over before that.

Mr. McDonald: That was six years ago.

Mr. Cameron: He is referring to the amendment to the mineral regulations of 1952, bringing them under The Securities Act. He goes on to say:

> "Isn't it wonderful protection to the farmer that in July, 1952, the Government eventually gets around to passing some regulations for the protection of the farmer against these people who have been running around gypping farmers out of their mineral rights!
>
> In 1952, they certainly did a wonderful piece of work for the farmers; if they had done it in about 1945 it would have been a little better, or 1946 or 1947."

Hon. Mr. Walker: We were a year ahead of him.

Mr. Cameron: He says:

> "Certainly. I could tell the Minister of Natural Resources that I have suggested this now for about four years in this Legislature, that there be some protection. You have protection for the farmers under The Farm Implement Act. If you go through the Statutes, you will see that for years the farmers have been protected against certain claims, at times without interfering.
>
> Mr. Brockelbank: Tell us what you would do.
>
> Mr. McCormack: You are the Minister of Natural Resources, and if you had the interest of the farmers of this particular province at heart, you would have done something about it before 1952, because you were certainly told about it enough."

Then later, the former Minister of the Securities Commission (Mr. Burton) had this to say, when the Act was amended, bringing landmen under The Securities Commission:

> "My advice to all interested people (and in this I implore all the help of all hon. members, in helping to pass it around) is that no one should sign a contract or lease unless he is satisfied that all the conditions in the prices are included in the document. Also that any who do not understand such papers should make it a point to have them full explained by someone they know and can trust.
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> I fail to see anyone who is in his right senses who can listen to a sales talk by a complete stranger, and then sign a contract in blank."

Hon. Mr. Walker: Who is the hon. member quoting from?

Mr. Cameron: This is by the Hon. Mr. Burton, 1953 – speaking on the amendment to The Securities Act. Then he said:

> "Here is just an example of the different things that came to my desk, back in 1949. A person sold his mineral rights to an oil company, and the agreement carried with it the usual 12½ per cent royalties. Two and one-half years later, the agent called at his place and offered to pay him $100 for his half-interest in the 12½ per cent. Now over a year later, this farmer claims that he has been gypped, because he signed the papers in blanks. To use his words: "I noticed the heading: 'Partial Lease, etc.' and I thought it was okay, and as Christmas was not far away, I was glad to get the $100'."

Another example:

> "Another farmer allowed himself to be persuaded to place his freeholdings in a pool of some sort. I wish to quote a sentence dealing with the problem:
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> Mr. McDonald: I wonder if you would mind tabling the letter.
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> Mr. Burton: I am just quoting part of the letter.
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> Mr. McDonald: What I wanted, Mr. Speaker, is to know where the letter is from.

> Mr. Burton: I can assure the member that that letter is actually in my possession, but I do not believe in passing people's names around like that. I just bring it to your attention, and to the attention of this House, that people should not sign that kind of contract."

(this was in 1953, telling about letters he received since 1949 about complaints of farmers).

He says:

> "Here is another one I wish to use as an example. Another farmer allowed himself to be persuaded . . ."

Premier Douglas: Mr. Speaker, just so the hon. member won't get off on the wrong track, the Minster may have had a letter referring to a portion of that, but he did not become the Minister until 1952.

Mr. Cameron: Are you speaking of letters that he has in his Department?

Premier Douglas: Yes. But he himself did not become the Minister until 1952.

Mr. Cameron: He's talking about it as though he was well-versed in the situation in 1949.

Premier Douglas: He was not in this House in 1949.

Mr. Cameron: He said: "When he was appointed Minister" further in here (and I don't want to take up the time of the House), but the Premier had asked him to look into this whole matter – that you had asked him, Mr. Premier, when you appointed him, to look into this whole matter, and see if he could not bring in some recommendations; possibly a Board to be set up to look into the whole matter, and he goes on to deal with that. He says:

> "One of my first responsibilities assigned to me by the Premier when I become Minister was, he asked me to take a serious look at this whole situation in 1949, and see what could be done."

So I would take it from that that the Premier was aware of it from 1949 to 1952, when he asked him to take over this Department. I just bring this to the attention of the House to show that it was a very controversial topic in 1952, 1951 and 1950. There are others, if you care to look, in 'Debates and Proceedings,' February 12, 1952, where one of the Opposition members was pointing out what the Premier of Manitoba had done to

warn the farmers in Manitoba, and the extracts listed here from press reports and announcements by the Premier of Manitoba, and the question is asked: "Why didn't our Government do something similar to that? Why didn't the Minister of Mineral Resources warn the farmer?" So, to say that nothing was said is absolute dribble; and then to stand in the House and say, "I have checked through the records, and there is nothing in the records of the House that refers to the hon. member or anyone else in the Opposition bringing up the matter of the mineral rights."

Hon. Mr. Walker: Can the hon. member find anything in the records of the House, prior to March, 1951, where any member of this House cautioned the Government that something should be done to prevent this? He talks about quotations from 1953 to 1954 . . .

Mr. Cameron: I would say this, Mr. Speaker. This is 1959. You want records of the House in 1951 and 1952?

Hon. Mr. Walker: No, 1950 and 1951.

Mr. Cameron: In 1950 and 1951 – your Royal Commission, I notice (and I have the report here) says that this was going on right up until 1957.

Hon. Mr. Walker: The point is, that you did not know about it.

Mr. Cameron: 1951, 1952, 1953 – here we're talking about 1952. The Royal Commission in its report – and I'm not going to check the page for you, you're supposed to have read it . . .

Hon. Mr. Walker: It's not so.

Mr. Cameron: It's not so, eh? The Royal Commission reports say:

"These were being obtained as late as 1957."

And they are still being obtained.

Hon. Mr. Walker: That's not right.

Mr. Cameron: Contracts are still being written on the farmers' mineral rights. What are you trying to tell us – that everything quite in 1951? They investigated this particular firm's operations going on, and has been going on since 1949. You talk about hindsight being better than foresight! We had the foresight then to ask you, to plead with you, to do something about it. This Bill does one thing, Mr. Speaker, but doesn't do anything else. It is not that the Attorney General and the Government are so interested . . .

Hon. Mr. Walker: Mr. Speaker, on a question of privilege. The hon. member has misrepresented what was in the Royal Commission Report. I refer to page 61, which says:

> "In the years 1950 and 1951, during which all of the contracts inquired into by the Commission were obtained."

No question about them . . .

Mr. Cameron: I said, other than that – and I repeated it. I said:

> "The Royal Commission investigated those transactions during the years 1950-51. That's what they had reference to. They said, further on in the report, that these transactions were going on as late at 1957."

Hon. Mr. Walker: That's not so.

Mr. Cameron: Not the ones they were investigating, but it is still going on. They have had from 1949 to 1959, ten years to look into the matter, and now they bring in a Bill, belated of course. It may do something, but at least it indicates to us that you did not bring it in from any great generosity, that you were going to do for the farmers, but because, after this investigation, you felt conscience-bound and the Government had to accept some responsibility, some measure of guilt in this whole sorry mess. That's why the Bill was brought in, and I hope the Bill will accomplish what it sets out to do. But I would point out that this Committee and this Board is going to be a very, very busy body, because there are thousands and thousands and thousands of farmers who claim fraud and misrepresentation. There are thousands and thousands of farmers who are going to come before the Board, and ask the Board to do something about it. There may be many instances in which you will have to bring in special legislation in this Legislature to see that individual farmers get justice under this particular Act. It is going to carry over a great period of years; it is not a six-months' operation. It is not one year's operation; it is going to be a period of years before any great headway can be made in this regard.

I say we welcome this legislation. We welcome many of the clauses in it, because we think it will have some effect, and will bring some justice to the farmers who found that they have lost their mineral rights. I don't think it is befitting to anyone to say, in these instances, that they didn't even take the elementary precaution to see what they were signing, before they signed. That's why I reviewed the intricate contracts, the legal thinking behind these contracts, set out and so designed as to accomplish a specific purpose, and they succeeded in accomplishing it: first, to get the farmer to change his contract from a lease to acquiring half of his share of mineral rights, and then to get another sub-contract or an assignment, and to carry that on beyond the present expiration date; then to get them registered in the Land Titles Office, and to secure duplicate title to these particular rights. Those were complicated documents, drawn up by the greatest skilled lawyers you could find to protect the oil industry; and I don't condemn them for doing it. It is the proper thing to do to protect their interest; but then to say that any farmer is dumb because he cannot understand those intricate contracts . . .

Hon. Mr. Nollet: Why don't you show them?

Mr. Cameron: . . . and then to come back now and complain because he lost his mineral rights, is certainly not becoming to any member of this Legislature, and particularly to the Attorney General.

Hon. Mr. Walker: Mr. Speaker, on a question of privilege. The hon. member says that to say that any farmer is dumb because he did not understand these contracts does not become the Attorney General. These words must be withdrawn. The Attorney General never used these words, or words of like meaning, and I suggest my hon. friend should withdraw that, so that it does not mislead the House. I would not want to be taken in by accepting that statement . . .

Mr. Cameron: I'll withdraw the word 'dumb', Mr. Speaker. I will say he said: "To me it is inconceivable that anyone would sign a document without looking into the intricacies of it'. Inconceivable. While he didn't use the word 'dumb', he used a politer word which means exactly the same thing, and it is inconceivable that they could be so ignorant of the fact that they could sign without even a cursory look into, or glancing at what they were signing." If that is not a condemnation of a farmer and his mineral rights, then I have never heard one.

Hon. Mr. Walker: I can send over to you what I did say.

Mr. Speaker: I must inform the House that the Hon. the Attorney General is about to exercise his right to close the debate. Any member desiring to speak on this motion should do so now.

Hon. Mr. Walker: (closing debate) Mr. Speaker, if I may say just a few words in closing this debate. I want just to comment on one of the major points I think my hon. friend thought he made in connection with this second reading. I challenged my hon. friend to show some evidence that some member of the Opposition did (as he claimed they did) warn this House that there was a pattern of fraudulent transactions going on in connection with farmers' mineral rights. What the hon. member said has just confirmed the view that I took. All he has been able to do is quote from speeches that were made in 1953, from records of this House in 1953, which, of course, was after the Government had closed the barn-door, not before . . .

Mr. McDonald: Mr. Speaker, on a point of privilege. I would like the hon. Attorney General to refer to a speech that was made June 18, 1951.

Hon. Mr. Walker: My. hon. friend didn't mention that.

Mr. Cameron: I'm not going to do all your homework for you.

Hon. Mr. Walker: Mr. Speaker, if the hon. member wants to make an argument, at least he must make it. My hon. friend referred to some speeches that were made in 1953 and 1954, and if he wants to talk about June, 1951, of course, if he will look at the Royal Commission report he will find that these mineral rights which were acquired by the Prudential Trust Company, were transferred over to the beneficial owners in December of 1950, in March, 1951 and April, 1951.

Mr. McDonald: They are still going on.

Hon. Mr. Walker: As a matter of fact, these mineral rights which the Prudential Trust Company had were all acquired from farmers before June, 1951, as the Commission report shows. It would obviously be impossible for the Prudential Trust Company to transfer or convey these resources to beneficial owners in December, March or April, if they had got them from the farmers after that date. So my hon. friend has not established that anybody foresaw this problem any sooner than this Government saw it, and took action to try to prevent it.

Mr. McDonald: This Government hasn't seen it yet!

Mr. Cameron: How could we take action – we weren't the Government!

Hon. Mr. Walker: My hon. friend can argue all he likes, but he might be in a very uncomfortable position. This does not help him any – the fact is that he has not been able to substantiate it. Really, it is kind of silly to argue at this stage as to who thought of it first. The fact of the matter is that it is apparent that nobody foresaw the extent and the magnitude of what was going on. Certainly there is nothing in the records, no evidence, to show that anyone thought of it before this Government actually took action in the summer of 1952. Yet my hon. friends persist in the belief that they did warn the Government, but the least they can do is to prove it. We have asked them to prove it, and the best they can do is come up with quotations from the debates of this House, not just one year after horse was stolen, but three years after the horse was stolen.

Mr. McCarthy: What about June of 1951?

Hon. Mr. Walker: The House was not sitting in June of 1951, in the first place . . .

Mr. Cameron: The year before that, and every year . . .

Mr. McDonald: That was the year the speeches were made; you don't have to come in here and tell us. You don't even understand what goes on in the House, let alone the rest of the time.

Hon. Mr. Walker: Mr. Speaker, the fact is that my hon. friends are now trying to pretend that they were wise back in 1951 – and I suggest that they have to produce a little more in the way of credentials.

Mr. McFarlane: The point is, the farmers' wife doesn't even know . . .

Hon. Mr. Walker: Sorry, Mr. Speaker, if you'll forgive me for not replying to the petty, sniping remarks that come from the petty sniping little member for Qu'Appelle-Wolseley. I may say, however, in response to the member for Qu'Appelle-Wolseley, that he is not really a bad fellow when he is with his equals – but I don't know anybody that is his equal!

My hon. friends opposite make some rather vague charges that this has been neglected by the Government. Let me say that, in 1952 (and I repeat what I said before) the Government instituted regulations to require these people to be licensed. Now, that is not a sign of a Government that is careless, or uninterested in the rights of the farmers. This is the only Province that has taken that step. Other provinces have had the same problem, but haven't taken that step. This Government, in 1954, (two years later) when farmers came and said, "Well, we were defrauded, and what can we do about it," they were advised that courts were set up to provide remedies for that kind of situation. Their answer was, "Well, we could go to court, but the oil companies, having more money than we have, can take us right to the Privy Council, and eventually can beat us, or at least break us in litigation." So we said, "All right, you just win the first case, and we'll take all your appeals right through the Court of Appeal, the Supreme Court of Canada, and, if necessary, the Privy Council." And we did. We spent the taxpayers' money providing assistance to farmers who claimed they had been defrauded, and, as I said in moving this motion, with good results.

However, there are many people who have not seen fit to take the normal procedures, to avail themselves of the normal channels of redress. In 1957, the Government appointed a Royal Commission. This was only four years after we had advised the farmers that they should use the courts, after we had agreed to provide them with the funds so that they could use the courts. As a matter of fact, four years is not a long time, as my hon. friends should know. When it comes to initiating an action in the Supreme Court of Canada, four years is not a long time. What we have done is this, Mr. Speaker. We have made certain that no one who was defrauded is in any worse position today to get a remedy, or to get justice, than he was the day after he was defrauded. That's what we have done.

Mr. McCarthy: A lot of them are already dead and gone!

Hon. Mr. Walker: My hon. friends can talk about this being a long time after. A farmer who has been victimized by these people, if he has been victimized by them, is in as good a position today, or better than he was the day after the incident took place, because, in the first place, we undertake to provide him with financial assistance, and, in the second place, we provide him with this re-negotiation Board which he may use without cost or without any great burden of cost, as a means of getting redress. So no one has lost irretrievably any rights which he may have been defrauded of, by means of any delay, and I repeat again that if there is any delay in getting redress, it is not the fault of this Government. The people have always had the right to bring an action. They have had

the assurance that this Government would stand behind them in a financial way. My hon. friends can get quite excited about this if they like, but there is not a farmer in Saskatchewan who has not either got redress, or has not thought it worth his while to bring action, unless he has brought the action in lawsuit.

So the Government, I think, had done something for a group of people for whom nothing the like of which has been done before anywhere in our western provinces, or even in Canada as a whole. I am sorry my hon. friends are not able to produce some evidence to substantiate this claim, and not having done so, I think they must accept the fact that this Government has been just a step ahead of them all the way, in trying to do something to obviate and eliminate this problem. So, Mr. Speaker, with those remarks, I have nothing further to say, save to move second reading of this Bill.

The motion for second reading was agreed to and Bill No. 92, referred to a Committee of the Whole at the next sitting.

VILLAGE ACT AMENDMENTS

Moved by the Hon. Mr. McIntosh:

That Bill No. 86 – An Act to amend The Village Act, be now read the second time.

Hon. L.F. McIntosh (Minister of Municipal Affairs): Mr. Speaker, the amendments to The Village Act by and large are complimentary to the amendments proposed in the other Municipal Acts with possibly one or two exceptions. It has been felt, and representation has been made to the Department and to the Government, that it might be advisable to make provisions to assist villages and also towns in granting aid for the erection and maintenance of a health centre in that particular town, providing the Union Hospital Board and the Minister of Public Health participate in those negotiations.

Another suggested amendment in The Village Act which brings in a new principle, has to do with the issue of debentures by a village for the purpose of the installation of a water distribution system or sewage disposal system. So we are making that provision in the proposed Bill.

With the exception of the two amendments suggested, the other proposed amendments by and large are complimentary to the other Municipal Act. Therefore I move second reading of Bill No. 86 – An Act to amend The Village Act.

The motion for second reading was agreed to, and the Bill referred to a Committee of the Whole at the next sitting.

RURAL MUNICIPALITY ACT AMENDMENTS

Moved by the Hon. Mr. McIntosh:

That Bill No. 103 – An Act to amend the Rural Municipality Act, be now read the second time.

Hon. Mr. McIntosh: Mr. Speaker, I think I would like to make it quite clear that the Department of Municipal Affairs and the S.A.R.M. executive spend some considerable time during the course of the year giving consideration to resolutions passed at the district conventions and at their annual provincial convention. As a result of those resolutions we attempted to arrive at legislation that meets with the approval of those submitting the resolutions to the S.A.R.M. Convention and meet with the approval with the S.A.R.M. executive.

During the past summer it was drawn to our attention that probably the time had come, or was in some respects overdue, when an effort should be made to streamline the procedure of elections; streamline the procedure of setting up posters and posting notices of elections, and also streamlining the places in which the votes for a councillor might take place; drawing to our attention that there are division in the province that are not now located as the centre. There might be a town or a village or, in some cases a city outside of the municipal division that would be more acceptable than an election place within the division.

To streamline this that appeared to be reasonably satisfactory to the S.A.R.M., brought about a substantial number of amendments to The Rural Municipality Act. The Municipal Secretary Treasurers Association asked us for a slight amendment to The Rural Municipal Act that brought about a minimum principle, and I don't think that is important enough to deal with in second reading and can be dealt with rather fully in Committee. Another question that the S.A.R.M. were concerned about was an effort to control the weight limits on municipal roads, and a considerable amount of discussion took place relative to those sections that now appear in the Act dealing with the control of weights on municipal roads, and there are some amendments relative to that question.

In addition to those, a very large number of the other amendments have to do with the new Social Aid Act and the necessary changes in The Rural Municipality Act because of that. Therefore with that explanation, Mr. Speaker, I move second reading of Bill No. 103 – An Act to amend The Rural Municipal Act.

Mr. McCarthy (Cannington): Mr. Speaker, may I ask a question. On the last page in regard to the Farmers' Union, you changed 'may' to 'shall'. Would you explain that.

Hon. Mr. McIntosh: Yes. I had red pencil underneath that one too, and I overlooked it.

At the present time the section dealing with S.F.U. Requisition makes provision whereby one who signs the requisition to become a member of the S.F.U. can have his fees collected through the municipal office. In other words, in signing the requisition he commits himself to make the payments, and those payments are included in his tax notice, and are also included on the elevator list, providing the indebtedness to the municipality is $25 or more.

The proposed amendment suggests that on the tax notice that goes out to those who have signed the requisition form, there will be a stamp placed on that tax notice drawing to the attention of the person who has signed the requisition that S.F.U. dues are due and payable. Secondly, there is that person who has not signed the requisition, and provisions are made in the amendment whereby, when the tax notice goes out to the non-signer of the requisition, a stamp will be placed on the tax notice, drawing to that person's attention that he can, if he wishes, use this method of paying his S.F.U. dues, and enclosed along with that tax notice is a requisition form for the signature of the non-member, providing he wishes to use this method of having his S.F.U. dues collected.

Mr. Nicholson (Nipawin): Is it purely voluntary?

Hon. Mr. McIntosh: In answer to your question the legislation says that the Secretary Treasurer shall put the stamp on the tax notice, but the payment is voluntary.

The motion for second reading was agreed to and the Bill referred to a Committee of the Whole at the next sitting.

POWER CORPORATION ACT AMENDMENT

Moved by the Hon. Mr. Brown (Last Mountain):

That Bill No. 104 – An Act to amend The Power Corporation Act, be now read the second time.

Hon. Russ Brown (Minister i/c Sask. Power Corporation): Mr. Speaker, this Bill No. 104 is to provide for the amendment of The Saskatchewan Power Corporation Act. Generally speaking it deals with a change in Section 26 which provides for the determination of the price to be paid for land required for Power Corporation purposes, and for the payment of compensation for easement.

At the present time, as the Act stands, if the price cannot be agreed on between the Corporation and the land owner, the matter can be referred to an official evaluator who will determine the price to be paid. At the present time there is no appeal, and the word of the evaluator is final.

It is now proposed to go one step further and provide an

automatic right of appeal, by the land owner or the corporation, to a judge of the District Court, who will determine the amount of compensation or the price to be paid for the land. That is really the only amendment that is in this bill, and I think the details would be better discussed in Committee. I would, therefore, move second reading of this Bill No. 104.

Mr. L.P. Coderre (Gravelbourg): There are a few little remarks I would like to make in regard to this Bill, and one is the fact that it gives the power to the Lieutenant-Governor in Council to appoint an evaluator. If my memory serves me correctly, we have an Arbitration Board under The Arbitration Board Act, so that if we have disputes with regard to the value of land, then we can go to the Arbitration Board. What I cannot understand is why the deviation in the particular respect? This leaves the evaluating of the land to an individual that could be biased in that respect, in respect to the Power Corporation itself and you don't specify what an evaluator is, or anything else. Then, of course from there he can go to a judge.

Then another point in the Act is this – in the event that the appeal to the judge decides that the amount is 10 per cent greater than originally decided the charges or the cost will be charged to the person making the appeal. Again that is deviating from our usual practice. Should the judge decide that the land is $5 or $6 more than the actual value asked, the cost of the appeal would be to the person making the appeal. It seems to me that it doesn't seem to give a fair choice, actually, to the individual; and, as I say, I would like to deal with that later. But these were just a few little faults which did not seem to give quite the fairness required to the individual.

Mr. D.T. McFarlane (Qu'Appelle-Wolseley): Mr. Speaker, I would just like to make a comment or two on this Bill before it goes into Committee. Insofar as this Bill 104 is concerned, it mentions the easement and the value of the land. I think the chief cause for concern among the farmers today, especially those where the higher voltage and power lines go across their land, it is not only the land that is taken up, but it is the case of the danger factor involved should anything happen to the lines, should the lines break and damage the farmer's crop and livestock, or damage persons. I want to draw that to the attention of the House, because I don't see, anywhere in this Act, where that has been taken into account. That is one of the most pressing problems today, insofar as the farmers are concerned, where those lines cross his land.

I notice that an evaluator is mentioned, but I don't see any mention in here of the board of three personnel. We heard something about that in Crown Corporations Committee a week ago today, where there was an independent board of three to be appointed. I don't see it mentioned here.

Hon. Mr. Brown: Mr. Speaker, I want to suggest that the last speaker was out of order, in my opinion, in raising some of the questions which he did on second reading of this Bill. They could very easily be dealt with in Crown Corporations Committee when we are dealing with the Annual Report of the Corporation. I would like to point out that it is an

entirely different matter from the one to which he referred, this three-man board. It is a different matter entirely to this.

I was not quite sure whether the hon. member from Gravelbourg, when he was speaking, suggested that the evaluator would be appointed by the District Court judge; but I think some of these questions can be better discussed in Committee.

The motion for second reading was agreed to, and Bill No. 104 referred to a Committee of the Whole at the next sitting.

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