

**LEGISLATIVE ASSEMBLY OF SASKATCHEWAN**  
**First Session — Fifteenth Legislature**  
**36th Day**

**Friday, March 26th, 1965**

The Assembly met at 10:00 o'clock a.m.  
On the Orders of the Day

**ANNOUNCEMENT RE INDOOR TRACK**

**Hon. J. W. Gardiner (Minister of Public Works):** — Mr. Speaker, before Orders of the Day, I have a very brief announcement I would like to make. Yesterday at a press conference, news of which will appear in the press today, The Saskatchewan Jubilee and Centennial Corporation Executive Committee announced that they had recently approved an expenditure of \$15,000 for the construction of a portable indoor track for Saskatchewan similar to those in use in three other provinces of western Canada.

The track when constructed will be suitable for any enclosed hockey rink of significance in the province, and will be the fourth indoor track in Canada. All of these are located in western Canada. I think the sports committee of the Jubilee and Centennial is to be congratulated for the work that they have done and the idea that they have come up with which I think will be of service to the entire province of Saskatchewan. It will make it possible for our track and field athletes to take part in competitions which they haven't been able to do in the past; it will make it possible for us to have track and field events twelve months a year, instead of as at present for only the summer months.

This track, as has been indicated, will be available to almost all parts of the province due to the fact that most centres in Saskatchewan will have regulation-sized rinks in their communities. I think that this will add greatly to our recreational program in the province of Saskatchewan, and I want to extend to Captain Bligh, the Chairman of the Committee, and his committee, my congratulations as Vice-Chairman of the Jubilee and Centennial Corporation for the work they have done and for this idea they have come up with, as their part in the Jubilee and Centennial work in 1965-67. The track after it is completed this fall will be under the Jurisdiction of the Saskatchewan Branch of the Amateur Athletic Union of Canada.

**Hon. Members:** — Hear! Hear!

**Mr. Eiling Kramer (The Battlefords)** — Mr. Speaker, before Orders of Day are called, I want to the committee that is under if I challenged him to a the congratulate the minister on his announcement and his jurisdiction, and I think it would be fitting half mile race at the official opening.

**Hon. D. McFarlane (Minister of Municipal Affairs):** — I'll carry the stretcher.

**STATEMENT REGARDING RETURNS ASKED FOR IN 1965 SESSION**

**Hon. D. Steuart (Minister of Public Health):** — Mr. Speaker, before Orders of the Day, we have just done some research, and the Acting Leader of the Opposition (Mr. Brockelbank) has asked from time to time, about Returns being tabled and I think it would be interesting for the house to note that this year we have answered more questions and tabled more Returns, and had more Returns asked for than any other legislature in the history of the province. For instance, in 1962 there was a total of 67 Returns asked for in 37 days and 57 of them were tabled. In 1964, 48 were asked for, 42 Returns were tabled. In 1965, so far, we have had 103 Returns ordered and we have answered 50 as of today. Last year there were 155 questions asked, and this year, so far, there have been 272 questions dealt with, and many of these involved a great amount of work for all departments, some of them ended up as Returns.

I just wanted to point this out, I think that in fairness we are all doing our best to answer these questions, and the departments have been put to a great amount of work, and we don't object to this, but we do ask the of position to be patient and we will answer all these Returns and table them just as soon as we can.

**Mr. J. H. Brockelbank (Acting Leader of the Opposition, Kelsey):** — Mr. Speaker, before Orders of the Day are proceeded with and in regard to the matter raised by the leader of the house, I would like to point out that it has not been our practice in the opposition to either ask questions or move for Returns just for the sake of asking questions or moving for Returns. I want to point out seriously to the government that on numbers of occasions we have had indications from ministers, including the Premier, that we were not going to be allowed to have certain information. Now, this is one of the things that, of course, makes an opposition fight to get that information, and probably, a few extra because of these attitudes. Now we will try in the future to be as reasonable as possible; we want to be reasonable; we don't need to be unreasonable. I appreciate the co-operation which the leader of the house has mentioned.

## SECOND READINGS

**Hon. W. Ross Thatcher (Premier):** moved second reading of Bill no. 63 — **An Act to provide for the Imposition of a Tax on Purchasers and Users of Tobacco.**

He said: — Mr. Speaker, this is a bill which provides for the imposition of a tax on the purchasers and users of tobacco. The proposed tax is similar to one which is levied in Prince Edward Island, Nova Scotia, New Brunswick, Quebec and Manitoba. As a matter of fact, the tax in Manitoba is 20 per cent, in Newfoundland, it is 12 1/2 per cent, in Prince Edward Island, New Brunswick and Quebec, the tax is the same as we are proposing, 10 per cent.

This revenue source was selected as one which probably will not inhibit the economic growth of the province. If this tax should happen to benefit the health of the people of the province, so much the better indeed, the more we read about tobacco ads and cancer, the more we think perhaps this tax may be of some help in that regard also.

**Some Hon. Members:** — Hear! Hear!

**Mr. R. A. Walker (Hanley):** — All Liberal provinces . . .

**Mr. Thatcher:** — The proposed act will establish the following rates: 1/5th of one per cent on every cigarette purchased. This will increase the tax on a package of 20 cigarettes by 3¢ and a package of 20 cigars by 2¢. The tax on cigars will be 1¢ on every cigar purchased for a retail price of 5¢ and not more than 15¢; 2¢ on every cigar purchased for a retail price of more than 15¢ and not more than 25¢; 3¢ on every cigar purchased that retails at more than 25¢ and not more than 35¢; 4¢ on every cigar purchased that retails at more than 35¢ and "not more than 45¢; 5¢ on every cigar purchased that retails at more than 45¢. One cent on every half ounce, or part thereof, of any tobacco purchased other than cigarettes or cigars.

As I said in the Budget Speech, we hope that the yield on this tax, after we pay commissions, will be somewhat under \$3,500,000. The exemption of tobacco from the sales tax will reduce our revenues from that source from about \$1,500,000 and we expect that the net increase, because of this tax, will be approximately \$2,000,000. Our officials say, they can't tell exactly, they have to estimate.

We propose that this tax will come into effect on April 1st. The tax is payable by consumers to the retailer who is designated a deputy collector. The deputy collector forwards the tax to wholesalers, or manufacturers, who are appointed collectors, and these collectors remit the tax collected to the Provincial Treasurer. Collectors of the tobacco tax will be required to file monthly returns, and to remit the taxes received from deputy collectors. There will be a four per cent commission involved. The retail vendor will not be required to file returns with the Provincial Treasurer, and, therefore, subject to arrangements to implement the tax initially, payment of the commission to retailers does not appear to be necessary.

As I recently announced, it is proposed that a form covering the tax on initial inventory to be sent out prior to the effective date of the tobacco tax. These will be forwarded to all of the holders of licenses under the E & H tax and to all wholesalers and jobbers. In the initial stages, each deputy collector will be liable to account to the Provincial Treasurer for the tobacco tax on all sales made after March 31st, and will file one

return on initial inventory held as at March 31st and remit the tax to the Provincial Treasurer on this inventory. It is proposed the tax payable on this initial inventory return will be remitted by the deputy collector to the provincial Treasurer by July 1st. The commission of four per cent will be allowed on this return.

I think it would be appropriate to mention at this time that our Treasury officials have sought informal consultations with a number of the manufacturers and wholesalers, as well as the government of Manitoba. These officials and the tobacco companies have assured us of their co-operation. Now a little earlier, the hon. member for Kelsey (Mr. Brockelbank) asked me if we were certain that it was legal for us to collect this tax under the D.N.A. Act. I would say again that the Attorney General's Department has advised us that it is legal. As I mentioned earlier, five other provinces are using pretty well the same act, and I guess if it were not legal they wouldn't be able to impose the tax as they are doing. Under this legislation the consumer pays the tax directly to the retailer who is the deputy collector. That is why our officials tell us there should be no problem as far as legality is concerned.

Mr. Speaker, there is some urgency to this legislation, we are hoping that the tax can be collected next Thursday. I would hope that the opposition might go along with this, indeed, if they were feeling particularly congenial, I wouldn't mind if they just passed this and also let us get into committee today. I don't suppose they will go that far, but nevertheless I will make the request. Our officials do say that if we want to start collecting this tax by next Thursday, we have got to get the bill through the house.

I would, therefore, move second reading of the bill.

**Mr. J. H. Brockelbank (Kelsey):** — Mr. Speaker, speaking to this motion, first in regard to the question of legality. The house will remember that the reason I raised the question of legality was because the Premier talked about taxing the inventories, and mentioned that the tobacco stores were buying big supplies, were going to buy big supplies. This raised the question of legality. I recognize that if the consumer pays the tax to a collector this will certainly get by as a direct tax and there won't be any trouble about it.

I want to compliment the Premier this morning, This is the first speech I have ever heard him make in this house when he did not make an attempt to raise Cain and blacken the Socialists.

**Some Hon. Members:** — Hear! Hear!

**Mr. J. H. Brockelbank (Kelsey):** — Why didn't he say, Mr. Speaker, for twenty years the Socialists didn't do anything about this?

**Some Hon. Members:** — Hear! Hear!

**Mr. Brockelbank (Kelsey):** — This tax is another hit and miss affair; it is not a tax that has any relationship at all to the question of the ability to pay. It is a tax on the people who are unfortunate enough, like some of my hon. friends over here, who are addicted to the use of the weed, and they are poor and they are rich. It has no relation to the question of ability to pay. If my hon. friends are hoping that this will be accepted and will go across all right because of the moral question, of whether or not people should use tobacco, I think they are on pretty poor ground, because we fill our newspapers, we fill our TV screens, we fill our radio programs, with advertisements about smoking, about the use of tobacco, encouraging the use of tobacco.

**Mr. I. MacDougall (Souris-Estevan):** — Ask Toby, he knows all about it.

**Mr. Brockelbank (Kelsey):** — Then if we do that, I would like to see this stopped, but if we do that, then for goodness sake, let us not try to take shelter in the moral issue that this tax is justified. This tax is not justified because it is not necessary, because it is not a tax which has any relation to the question of ability to pay. I'm not going to try and delay it, as a matter of fact this tax will hurry up the process of getting rid of this government.

**Some Hon. Members:** — Hear! Hear!

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**Hon. D. Boldt (Minister of Health):** — Will you vote for it?

**Mr. Brockelbank (Kelsey):** — No, I'll not vote for it. I won't even vote for those things I don't believe in even for the wonderful good objective of getting rid of this government.

Now, Mr. Speaker, I don't want to delay the debate, but there is no need to have this considered in committee, either today or tomorrow. It can be considered in committee at the usual time and still can get into effect by April 1st. We have no desire to cause any inconvenience to the government or to the administration, by delaying this beyond the end of this month, but I will have to vote against second reading of this bill.

**Mr. W. A. Robbins (Saskatoon City):** — Mr. Speaker, I just want to say one or two words about this bill. The government promised heavy legislation this session, and this is the heaviest piece of legislation we have received so far, 19 pages, I don't know whether Mr. Premier was in touch with Judy in Ottawa or not, and is attempting to reduce tobacco consumption in the province as well as in Canada.

However, Mr. Speaker, this is a tax increase. We have heard a great deal about tax decreases. This is a tax increase. No doubt, the Premier hopes that the British Columbia press will not give headlines to this tax increase, which wasn't promised in the 1964 election, as were some of the tax reductions that appeared in the budget on February 19th.

Insofar as I am personally concerned, and insofar as the hon. Minister of Social Welfare (Mr. Boldt) on the other side is concerned, the revenue from this bill to the government will be nil, not \$3,500,000 in a year.

**Mr. I. C. Nollet (Cutknife):** — No one has spoken on behalf of the hard workingman. Yes, I want to register my strong opposition to the fact that this is just another huge burden placed on the backs of the snoose chewing proletariat.

**Some Hon. Members:** — Hear! Hear!

**Mr. Eiling Kramer (The Battlefords):** — I would just like to ask the Premier a question. He listed the tax on cigars and cigarettes. How much on a box of snoose?

**Mr. Thatcher:** — I will answer that question when we come to the details in the committee.

**Mr. Fred Dewhurst (Wadena):** — Mr. Speaker, I agree with what our leader on this side has said, that this tax is not a necessary tax. The only necessity I can see for this tax, after perusing the estimates, is that this is one way that the Premier intends to raise extra money for the free-loaders which he talked about earlier in this session, the six free-loaders which he told us he intends to put on the people of this province.

As far as the urgency of him wanting to get this legislation rushed through the house at this date, it is hard to realize why there should be the urgency at this time. The budget speech was brought down on February 19th, over five weeks ago, and so this legislation must have been in mind at that time when you peruse the budget speech, and yet we find five weeks have passed before he even brought it in the house for second reading. I cannot see the urgency of this, nor do I agree with the principal involved.

**Mr. W. J. Berezowsky (Cumberland):** — Mr. Speaker, I would like to go on record in supporting the deputy leader in saying that the principle of this legislation certainly isn't a moral one. If the Premier and the government of Saskatchewan had intended to try to stop the people from smoking, he should, first of all, have brought in legislation to stop the publicity and advertising and secondly made the tax three or four times as great, if that were the purpose.

I think that the reason for imposing this tax is because the government has to have money; they are having all kinds of expenses which they didn't anticipate, and they figure that they will now be able to collect

some extra taxes from a lot of people who can't afford to pay this tax. I would like to point out to the Premier and to the government that a great number of working people today, who under the stress of living are smoking and they can't afford to smoke, but they are smoking just to try and pass the time and not to worry, and this is an imposition upon these people, a very heavy imposition.

There is now a hundred per cent increase in the tax, because it was five per cent and now it is going to be ten per cent. I would like to point out too, that there is a kind of a precedent here. I have seen taxes imposed, and I have read about taxes being imposed and taxes imposed on people, and they pay it, but in this case here when this tax is going to become payable, say around the first of April, the merchant will have to pay a tax which he has not even collected. I would like to know whether these merchants are going to be paid at least the interest on the money they will have to pay over to the government. This is an imposition that is not necessary; the government could have said that on April 1st as tobacco is being sold retailers will collect this tax and turn it over, but to ask the merchant to pay on an inventory at this time is an imposition, it is undemocratic, it is not right. These people have not smoked these cigarettes, they are not supposed to pay this tax. Why should you ask them to pay a tax on behalf of somebody else? The question arises that when there is going to be a change, and someday there may be a change, that this tax may be removed. Are you going to then pay it back on whatever inventory is in the stocks of these merchants, the tax that will have been paid. How are you going to work that one? Are you going to collect at both ends? These are some of the questions that arise. Finally I would like to say to the government that this is speeding up the time when you will not be the government anymore because of such legislation.

**Mr. W. G. Davies (Moose Jaw City):** — Mr. Speaker, may I say this, it seems to me, as it does to the member for Kelsey (Mr. Brockelbank) that any suggestion that something good will come out of this bill for the people of Saskatchewan, for those who smoke, or for those who might be convinced they should smoke, is altogether misleading. I suppose you could say it is another type of Liberal smoke screen, and I think this will be said increasingly by the smokers of Saskatchewan. But seriously, Mr. Speaker, it appears to me that if the government had wanted to interject a positive note into this bill, they might have said that one-half of the proceeds of the tax would be devoted to information on the ill effects of tobacco, and tobacco products, and that my friend, the Minister of Health (Mr. Steuart) would have had this added to his budget so that he could put on each year a better educational campaign than I think is operative in this province.

As well, if more money was sought for the treasury of this province, why put this on all of the smokers indiscriminately, whether they have a \$3,000 a year income or ten times that. As the member for Kelsey (Mr. Brockelbank) said it is most unfair. Why didn't the Premier consider a tax on tobacco advertising which would have yielded money for the Treasury and not extracted it upon the consumer, as this does? Now, I am not now a smoker — I was at one time — but there are many people who still have the habit. There is no question about it that this is going to cost them more money. It is not going to reduce the amount of tobacco that is smoked. There is no doubt about that. It may transfer some of the people from tailor-made cigarettes to tobacco — pipe smoking, but it is just another tax on the people of Saskatchewan, levied again on those persons who have the least ability to pay it.

I would like to ask the Premier, however, if any type of attention was given by his officials and by the government to the idea of a tax levied on tobacco advertising, because it seems to me that it is the most alarming. You can't turn on television or look at any magazines or newspapers, without seeing an inordinate amount of advertising for tobacco products. I think that we might do something positive if we, at least, taxed tobacco advertising and used the results of that tax for information on the effects of smoking and the use of tobacco products.

**Mr. D. W. Michayluk (Redberry):** — Mr. Speaker, I was just going to get up and say a few words in respect to this bill. I haven't the comparative figures on the two sides of the house, but I know that this tax is going to affect the members of the government to a much larger degree than the members of the opposition, because I am sure that in terms of numbers the members of the government outweigh the number of members on this side of the house that are smokers.

I am glad that the Minister of Public Health (Mr. Steuart) has

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given up smoking. I used to be an addict of this weed several years ago, and I will not be contributing to the public purse on this, but I am just wondering how many members on the other side are going to rise and talk for this bill other than the Premier. This is the point that I would like to ask, and put before the house.

**Mr. Martin Pederson (Arm River):** — In view of the remarks that were made just now, I believe that I will rise and speak to this. I am probably as heavy a smoker as anyone in this chamber, and I suggest, Mr. Speaker, that if it is necessary for a tax to be raised, there is no better place to put it. I believe that on the question of cigarettes, as on alcohol, these are items that no human being really needs, and if we wish to smoke that is our business, but if the government can derive the revenue that is required to round out the budget, then I say this is the proper place to put it, and I certainly support the bill.

**Mr. Speaker:** — I must draw the attention of the house to the fact that the mover of the motion is about to close the debate, if anybody wishes to speak he must do so now or he will be precluded from doing so.

**Mr. Thatcher:** — Mr. Speaker, as I say, I would like to get this through this morning, so I am not going to say very much. No tax is desirable, but I think this kind of a tax is about the least objectionable that you could find. I think our record as far as taxes is concerned compares pretty well with that of my Socialist friends opposite. We had a Return two years ago that showed in their first eighteen years in office they increased 600 different taxes and levies . . .

**Some Hon. Members:** — Hear! Hear!

**Mr. Thatcher:** — . . . they imposed 600 new ones and increased 650 others . . .

**Mr. Brockelbank (Kelsey):** — The hon. Premier is . . .

**Mr. Thatcher:** — . . . then when we asked them for a similar Return a year ago, the record was so bad, they refused to give us the answers any more, so we didn't find out the up-to-date total. Compare that Socialist record with ours this morning. In the budget we eliminated, or decreased, 43 different taxes, and on top of this we added about 26 other items which we eliminated from the education tax . . .

**Mr. Brockelbank (Kelsey):** — On a point of order, Mr. Speaker, the hon. member is certainly raising new issues in this debate, and is not talking to the bill at all.

**Mr. Thatcher:** — All I wanted to point out to the hon. member from Kelsey (Mr. Brockelbank) that despite this tax this morning, overall tax cuts this session will be \$12,000,000 by this government so we are not too dismayed by this levy.

Where will this tax money go? This \$3,500,000, or whatever the sum will be, will be used to help build highways, will be used to help build parks, will be used to send our boys and girls to school and to university, it will be used for reasons of health . . .

**Mr. Eiling Kramer (The Battlefords):** — What about our widows and orphans?

**Mr. Thatcher:** — . . . yes, it will be used for our widows and orphans . . .

**Mr. Dewhurst:** — And to the free-loaders . . .

**Mr. Thatcher:** — . . . and so I am sure that my hon. friends knowing that this tax revenue is going to be helpful, of help to the working people, to the average Canadian and to the small farmer, I know that they will all support it.

**Some Hon. Members:** — Hear! Hear!

Motion agreed to and bill read the second time.

**Hon. W. Ross Thatcher (Premier):** moved second reading of Bill no. 57 — **An Act to amend The Education and Health Tax Act.**

He said: — Mr. Speaker, I am sure that all hon. members opposite will want to support this bill, because this is one of the key bills of the session which reduces the overall sales tax from five per cent to four per cent.

**Some Hon. Members:** — Hear! Hear!

**Mr. Thatcher:** — That is a one per cent decrease in the sales tax rate. I might say that in the last election campaign, we told the people of Saskatchewan that if we were elected, we could bring this about, and we are simply honoring another election promise this morning. This change will save the people of Saskatchewan about \$9,600,000 in the next fiscal year. Not only will this reduction improve the position of the Saskatchewan consumer which will result in an increased demand for goods and service in the province, but it also should result in sizeable savings to those investing in new plants and equipment here. The sales tax as I say, will be reduced from 5 per cent to 4 per cent on all taxable products and articles retroactive to February 20th, except liquor, wines and beer.

I turn to exemption of farm items. This bill will also provide for exemption from the sales tax on several farm items which this government promised to do in its last election campaign. The major items to be exempted from the sales tax are barb wire and fence pickets. Fence pickets will be defined in the regulations to include wooden posts, pickets or sticks, which mayor may not have been treated to prevent deterioration. Twenty-two additional farm items mentioned in the budget speech are also to be exempt from the sales tax.

We think that these additional exemptions will assist farmers generally, including those engaged in livestock, dairy and hog production. The total saving of these exemptions will be about \$90,000. In addition, farmers will not be required to pay the sales tax on purple fuel, consumed in their farm truck. This extends the present sales tax exemption on purple fuel.

There will be a few other minor changes in this bill, Mr. Speaker. Members will note that we have drafted a completely new exemption section of the Education and Health Tax Act, which will be easier to follow since the commodities are now listed in alphabetical order. Also, there are a number of exemptions which were provided for by regulation and by administrative rulings which we felt should be contained in the act, from a legal standpoint. Finally, tobacco will be exempted from the sales tax on the date the proposed tax will come into force.

In short, Mr. Speaker, we think that this is a reform which is long overdue. I remind you that my Socialist friends, many years ago, said when they came to power they were going to wipe out the two per cent sales tax. Instead of wiping it out, they put it first to three per cent, then to five per cent. Now we are rectifying that situation this morning, or at least we are taking the first step. I hope that it won't be the final step, because I trust that if there is natural resource development in Saskatchewan the way we anticipate there will be, that it may be possible to reduce this tax even further in the years to come. I know that the people of Saskatchewan will continue to support a Liberal government because they want this policy carried out.

**Mr. J. H. Brockelbank (Kelsey):** — Mr. Speaker, after the tax increases that we have had in the province of Saskatchewan, it is very refreshing to have the Liberal government propose a tax decrease.

**Some Hon. Members:** — Hear! Hear!

**Mr. J. H. Brockelbank (Kelsey):** — The sad part of it is, that this tax decrease provided for in this bill and which we will support, will not compensate most of the people in the province of Saskatchewan for the tax increases which they already have had.

**Some Hon. Members:** — Hear! Hear!

**Mr. J. H. Brockelbank (Kelsey):** — For probably two-thirds or three-quarters of the people

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in the province of Saskatchewan, it is going to be, on account of what has taken place over the last few months and is taking place now, a tax increase rather than a tax decrease.

I don't blame the Premier for getting up and making all the good he can out of this bill; he sure is in need of credit.

**An Hon. Member:** — Hear! Hear!

**Mr. Brockelbank (Kelsey):** — It would have been much fairer to the people of the province of Saskatchewan to refrain from increasing for all people the medical care and hospitalization fee by \$20, and to keep this tax, rather than to do it the other way around. But this is the way the government has chosen to do it. To put on an increase of poll tax, to tax the poor, and to reduce the tax which will in the main, benefit the people who are much better off.

**Mr. W. E. Smishek (Regina East):** — Mr. Speaker, I just want to make some brief remarks in respect to this bill. We heard the Premier repeat on many occasions — the 43 or 40 tax reductions. I notice the Premier avoids making any reference to the election promise made, that is the removal of sales tax from children's clothing and shoes. During the election campaign, the members opposite made a great deal of noise that this was going to be one tax they were going to remove as quickly as possible.

If the members opposite intended to keep this promise, then in this bill they should have included the sales tax exemptions from children's clothing and children's shoes. Another promise they made, and said that they would proceed with very rapidly is exempting city purchases from the provincial sales tax. Here again, Mr. Speaker . . .

**An Hon. Member:** — Whose platform was that?

**Mr. Smishek:** — I have it right here, Mr. Speaker . . .

**Mr. Thatcher:** — No, no, that wasn't . . .

**Mr. Smishek:** — . . . this was the platform that was laid before the people by the candidates in Regina.

**Mr. Thatcher:** — That must have been from the Commonwealth . . .

**Mr. Smishek:** — I beg to differ, Mr. Speaker, Does the Premier deny that this was a leaflet that was distributed by the Liberal candidates in the city of Regina. Here are the pictures of the candidates and . . .

**Mr. Thatcher:** — Never make . . .

**Mr. Smishek:** — . . . that, insofar as the reductions of taxes are concerned, they promised to exempt city purchases from the provincial sales tax.

Mr. Speaker, no reference is made in this bill to exempt city purchases from sales tax. As far as the urban dweller is concerned, Mr. Speaker, there is no tax reduction for him whatsoever, in the budget or any proposed tax changes.

In fact insofar as the urban dweller is concerned, he is going to be paying more taxes this year and in the years ahead under the Liberal administration, than he did under the CCF administration. In the first place, the increase in the hospital and medical tax is going to be much greater than the one per cent reduction in sales tax.

Mr. Speaker, the Liberals promised all kinds of tax relief. I notice that the Premier, who is also the Provincial Treasurer, very carefully omitted any tax reduction for workers who are employed in the various trades who have to purchase their own tools. Sure there is some relief to the farmer from the purple gas tax and some concession on other farm items. What about the wage earner? What about a reduction or a complete exemption of the sales tax from all the tools and equipment that wage earners have to purchase? Also from workingmen's clothing. I think that if the government was concerned at all about the urban dweller, then they should have considered some tax relief. In fact, we know that insofar as the urban dweller



is concerned, because of the inadequate grant appropriation for education, the urban dweller will be paying a great deal more in property taxes.

Mr. Speaker, I feel that this bill does not go far enough; I feel that if the government really intended to be fair, then they should have considered some tax relief for the urban dweller. I greatly regret that they did not take this matter into consideration.

**Mr. Speaker:** I must draw the attention of the members of the house, to the fact that the mover of the motion is about to close the debate. If anybody wishes to speak, they must do so now, or be excluded from doing so.

**Mr. Thatcher:** — Mr. Speaker, the hon. member for Regina East (Mr. Smishek) said that this bill does really not go far enough. In reply, I would simply say this, that if the hon. member for Regina thinks that children's clothing and shoes should have been exempted, if he thinks workers' tools should have been exempted, if he thinks other tax reductions should have been given to various people in Regina and elsewhere . . .

**Mr. Smishek:** — You promised.

**Mr. Thatcher:** — . . . his government had twenty long years to do some of these things. They did not do them. All of a sudden, over night, the Socialists expect miracles. They did not do anything themselves, but they think we should rectify the whole mess they left in a few short months.

**An Hon. Member:** — We want . . .

**Mr. Thatcher:** — As far as exemption on children clothing and shoes are concerned, that was in the Liberal campaign platform. Mr. Speaker, I want to tell you, that this will be done in the four-year period. We said we would carry out every promise that we made over the four-year period, but we don't make any apology for not doing everything in the first year.

**Some Hon. Members:** — Hear! Hear!

**Mr. Thatcher:** — I say again, we have given our taxpayers relief this year exceeding \$12,000,000. Contrast this with the record of my hon. friends opposite, who bled the people of Saskatchewan for twenty long years, who put taxes on the back of the farmers and the workingmen, the like of which has never been seen in the dominion of Canada, in any federal government or any province.

**Some Hon. Members:** — Hear! Hear!

**Mr. Thatcher:** — I was a little surprised at their remarks today. The main reason, or one of the main reasons why my hon. friends are in the opposition today, why they will almost be wiped out in three years, is because of their record on taxes.

**Some Hon. Members:** — Hear! Hear!

**Mr. Thatcher:** — My hon. friends are a dying force in Saskatchewan.

**Some Hon. Members:** — Hear! Hear!

**Mr. Thatcher:** — In the next election, I don't think they will have five seats left . . .

**An Hon. Member:** — . . . Hanley . . .

**Mr. Thatcher:** — And the main reason they are a dying force, the main reason they will be wiped out in three years is because of the oppressive tax burden which they imposed on the people of Saskatchewan while they were in office.

**Some Hon. Members:** — Hear! Hear!

Motion agreed to and bill read the second time.

## CONSTITUTIONAL AMENDMENT

**Hon. D. V. Heald (Attorney General):** moved:

That this assembly:

- 1) Expresses its approval of the draft of an act to provide for the amendment in Canada of the Constitution of Canada contained in a White Paper, entitled "An Act to Provide for the Amendment in Canada of the Constitution of Canada" and tabled in this assembly the 5th day of February, 1965;
- 2) Recommends to the government of Canada that the proposed act be submitted to a committee of the House of Commons for consideration and that such committee be directed to hold public hearings and report thereon to parliament; or, alternatively that the proposed act be submitted by the government of Canada to the Senate of Canada with a request that it be considered by a committee thereof appointed for such purposes and that the committee hold public hearings and report thereon to parliament.

He said: — Mr. Speaker, the resolution that I have placed on the order paper must, I suggest by its very nature be one of the most important issues to come before this house, as the subject matter of the resolution goes to the very foundation of our nation.

This assembly, Mr. Speaker, is asked to express its approval of a proposed act that will provide for the domiciling of our constitution in Canada, and will, as well, establish the procedure for future amendments to the constitution. With the approval of this province and the other provinces of Canada, and with the approval of the houses of parliament at Ottawa, an address will be made to Her Majesty, requesting the enactment of the proposed statute by the parliament of the United Kingdom. Upon such enactment, the United Kingdom will have renounced any further right to enact laws, affecting Canada.

Now, Mr. Speaker, as the notice of motion recites, a copy of the proposed act, (White Paper) was tabled at the beginning of the session and because of the importance of this matter, each member of the assembly received a copy, and in addition, this matter was placed on the order paper early and I have delayed speaking to it until now, to give every member of this house, full opportunity to study the proposed act, and to assess its implications.

I have referred to this whole matter as an important issue, and I use the word "issue" advisedly to infer that the act will raise in our nation controversy as to its sufficiency.

Mr. Speaker, I do not anticipate that anyone will seriously challenge the principle that the parliament of Canada should have the right to amend our constitution. Dominions created after Canada, such as Australia, for example, enjoy this right, and Australia has, as you know, retained its close association with the United Kingdom. I believe and I am sure that most of you believe, that it is not in keeping with the position Canada has achieved in the international community, that we cannot amend our own constitution.

This absence of total sovereignty over our own affairs, detracts, I believe, from the image of our nation. We, as Canadians, know that as a matter of fact we now enjoy our absolute sovereignty. But if we, as a nation, are to continue to increase the effectiveness of our role, in international affairs as an independent nation, I believe it is imperative that our sovereignty be apparent as well as real. In addition, Mr. Speaker, it is equally imperative for our own internal affairs, that the constitution be brought to Canada, and an amending formula agreed upon.

Of course, Mr. Speaker, the question of whether the constitution should be repatriated, I believe, is not and has never been an issue in this country. What undoubtedly will be an issue in Canada is the effectiveness of the formula for the amendment of the constitution once it has been repatriated. The criticisms only point up the difficulty that the provinces

and the federal government have experienced in arriving at a formula that is acceptable to all parts of confederation. Now various federal-provincial conferences convened expressly to consider a formula over the past years, have demonstrated the difficulties involved.

The first significant dominion-provincial conference was held in 1935 to consider this entire question, but it was not until 1950 that the matter was again taken up, but without success. Now again, in 1960 and 1961, successive conferences of the Attorneys General of Canada, failed to arrive at an acceptable formula. I think it is fair to say, though, that it was the conference of 1960 and 1961 that advanced the provinces closer to an acceptable procedure. The proposed formula arrived at during the 1964 conference of Attorneys General which I was privileged to attend as the representative of this province, is derived in the main from the formula advanced at the 1960 and 1961 conference.

Now, Mr. Speaker, it is readily apparent why the unanimous approval of the terms of an amending formula has been so difficult to obtain. In a federal system such as ours, legislative jurisdiction is divided between the provinces and the federal government. It is not easy to establish a procedure that is at once flexible enough to meet national crises, but at the same time sufficiently inflexible to protect what are traditionally considered to be basic vested interests of the parts of confederation. It requires, I believe, a sensitive balance. There is also, Mr. Speaker, an understandable reluctance on the part of some provinces to commit all or a large part of these basic interests to an amending procedure that would permit amendment even over the protest of that province. Some provinces view the intent of confederation differently than others, so that they are inclined to view the extent of these basic provincial rights in a different manner. But all provinces, I believe, agree that there are areas of provincial concern that should not be subject to change without the consent of all the provinces.

All the provinces further agree, that our constitution needs reconsideration to adjust the terms of confederation to more adequately meet the demands now being made on confederation. It is recognized that there is an immediate need for federal-provincial conferences to resolve these problems. As to be expected, there is at this time lack of unanimity on the way to resolve these matters. This will come in time, I believe, but to wait until these problems have been resolved will unduly delay the repatriation of the constitution.

Before turning to the proposed act itself, Mr. Speaker, may I review two matters that may assist the members of the house to more fully appreciate the implications of this act. These matters are, first of all, existing procedures for the amendment of the British North America Act, and secondly, the principal or main provisions of the BNA Act define federal and provincial powers.

Now, Mr. Speaker, apart from the limited power of the federal parliament to amend the constitution, as for example, under class one of section 91, of the BNA Act, there are no expressed procedures established by the BNA Act, which is the principal statute of the written part of our constitution, there are no expressed procedures for an amendment of that act. Consequently, the BNA Act can now only be amended by an act of the parliament of the United Kingdom. Such an amendment occurs on the request of Canada, but the only procedure established as to how such a request is to be made, is one developed by custom. For example, in the past, an amendment to the British North America Act was secured at the request of the Canadian government of the day without any reference whatsoever to the parliament of Canada. Reference to the government, but not to parliament. This practice soon proved to be objectionable, and it was established shortly after confederation that an amendment was only to be requested upon a formal address of both houses of parliament. This method which is the present procedure, is satisfactory, probably, where the amendment involves those areas of legislative concern relating solely to the powers of the federal government. Where, however, provincial powers are affected by an amendment, the procedure has not been as well defined by custom. Generally, it is considered desirable to obtain the consent of at least those provinces affected. Now in our complex federal structure, any amendment has the tendency to affect the jurisdiction of both the federal and provincial governments, and it is, therefore, apparent that it is necessary and desirable to establish more specific procedures for amendment.

It is apparent also, Mr. Speaker, that the Imperial parliament must find it difficult to separate issues that are of purely federal concern, from those issues involving the rights of the provinces. It is not difficult to imagine, the embarrassment that the United Kingdom would suffer, where it

was faced with objections to an amendment from a province.

Fortunately, it is now almost unthinkable that the federal government would ever initiate a request for an amendment that would drastically affect any provincial powers without gaining the assent of all the provinces. Since confederation no amendment has altered the powers of provincial legislatures under section 92 of the BNA Act without the consent of all the provinces. This clearly reflects a basic and historic fact in Canadian constitutional affairs. The constitution cannot be changed in a way that might deprive provinces of their legislative powers unless they consent. The law had not said so, but the facts of the national life have imposed the unanimity requirement and experience since confederation has established it as a convention which any government or parliament would probably disregard at its peril. Now, I believe that this experience is reflected in the formula which was worked out in 1960 and 1961 and is now to a large degree, proposed.

There have been five instances: 1907 — subsidies to the province; 1940 — unemployment insurance; 1951 — old age pensions; 1960 — tenure of certain judges; and 1964 — supplementary benefits to old age pensions — in each case there was federal consultation with all provinces on matters of direct concern to all of them. There has been only one instance up to the present time in which an amendment was sought after consultation only with those provinces directly affected by it. This was the amendment of 1930 which transferred to the western provinces natural resources that had been under the control of the federal government since their admission into confederation.

There have been ten instances in 1871, 1875, 1886, 1895, 1915, 1916, 1943, 1946, and twice in 1949, of amendments to the constitution without prior consultation with the provinces on matters that the federal government considered were of exclusive federal concern. In the last four of these — that is, the postponement of the redistribution of seats in the House of Commons in 1943, the readjustment of representation in the House of Commons in 1946, the entry of Newfoundland into confederation 1949, and the second amendment in 1949, extending authority to the federal parliament to amend certain aspects of the constitution of Canada — one of two provinces protested that federal-provincial consultations should have taken place prior to action by parliament.

Now, Mr. Speaker, to vest in the federal government absolute and unqualified power to amend the constitution could drastically affect provincial powers. For this reason the provinces could hardly be expected to agree to the repatriation of the constitution without the inclusion of an amending formula in the repatriating statute. The federal government, of course, recognizes this, and for this reason no request can be made for repatriation without agreement on the amending formula.

The principal issue that, shall I say, wrecked previous attempts to arrive at an acceptable formula, was the extent to which provincial powers should be entrenched. The term entrenchment in constitutional law has come to mean that before a legislative power now vested in the province could be affected by a change in the constitution, it would require the unanimous consent of all the provinces. Certain areas of legislative jurisdiction are, and always have been, readily conceded by all the provinces as matters requiring unanimous consent before amendment. There has always been, for example, general agreement, that matters relating to education, matters relating to language, and matters relating to the amending formula itself, could and should be properly entrenched. Beyond these interests, the provinces have more or less disagreed as to further matters to be entrenched. This is where the area of conflict occurs.

It was the opinion of the government of the day in this province in 1961 that, as it was then stated, I believe, the constitution would be placed in a straight jacket, if all or the greater part of the provincial powers were entrenched, as it would create an undesirable rigidity in the constitution.

The government of that day, presented arguments against the entrenching of most provincial powers. It advanced the principle, that in most matters, an amendment should be obtainable upon the consent of two thirds of the provinces representing the majority of the population of Canada. It would appear, Mr. Speaker, and I wasn't there, of course, that the principle advanced by the government of the day of this province, at the 1960, 1961 conferences, met some opposition from a number of the other provinces, and it was generally on this impasse, that negotiations terminated or broke down until the conference which was held last fall at Ottawa.

Now, undoubtedly, one of the reasons for the reluctance of some of the provinces, to commit the constitution to a less rigid formula, is due in part to the general language employed in the constitution, defining the scope of provincial jurisdiction. An examination of the BNA Act, reveals that the division of power is not made with any degree of particularity, so that it is difficult to foresee what areas of legislative jurisdiction would be committed to the majority rule. The provinces, undoubtedly reason, that to adequately protect their vested interests, it is better to proceed cautiously and that the requirement of unanimous consent is the safest course.

To appreciate this concern, we need only look at the constitution as it presently exists. The main division of legislative jurisdiction between the federal and provincial crowns, Mr. Speaker, is prescribed by sections 91 and 92 of the BNA Act. Section 91 contains the principal areas of exclusive federal jurisdiction, while section 92 does the same for the provinces. Disagreements in the past on the degree of entrenchment have centred primarily on two heads of section 92 that grant to the province, the exclusive right to make laws with respect to Head 13, and I quote — "property and civil rights in the province"; Head 16 of section 92, which refers to and I quote — "Generally all matters of a merely local or private nature in the province."

Now, Mr. Speaker, it is difficult in view of the generality of the wording of these classes to describe the fields of legislation conveyed by these two heads to the province. In general they form the main source of provincial legislative power. For example, the power of the province to control the fields of contracts, vehicle traffic and civil rights springs directly from these two heads of section 92, because of the vagueness of the wording of these two heads, it is understandable, that some provinces view with alarm an amending formula that may have the effect of committing matters that cannot now even be contemplated, and which may be of fundamental provincial concern, to a formula other than one that would require unanimous consent of all the provinces.

I would now like to turn to the formula proposed as contained in the White Paper tabled. As I stated previously, Mr. Speaker, the principal statute of our constitution, is the BNA Act, the BNA Act of 1867, and subsequent amendments. The constitution is made up of various other statutes and of custom as well. Section 11 of the proposed formula contains a tabulation of the principal statutes, including our own Saskatchewan act.

Now section one of the proposed act allows the parliament of Canada to make laws repealing, amending, or re-enacting any provision of the constitution of Canada. This section then, Mr. Speaker, will transfer to the parliament of Canada the power to effect future constitutional amendments. Section ten of the proposed formula is the renunciation clause I referred to earlier whereby it is prescribed that no act of the parliament of the United Kingdom, enacted after the coming into force of the proposed act will extend to Canada or to any province of Canada. It's the signing off clause.

Section two of the proposed act is the section that I believe to be perhaps the most contentious section of the formula and because of its importance, I propose to read it in its entirety. This section states and I quote:

No law made under the authority of the part affecting any provision of this act, or section 51 A, of the BNA Act, 1867, or affecting any provision of the constitution of Canada relating to:

- (a) The powers of the legislature of the province to make laws.
- (b) The rights or privileges granted or secured by the constitution of Canada to the legislature or the government of the province.
- (c) The assets or property of the province, or
- (d) The use of the English or French language shall come into force, unless it is concurred in by the legislatures of all the provinces.

Section 51 A, Mr. Speaker, is that section of the BNA Act that entitles a

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province to a number of members in the House of Commons, not less than the number of senators representing that province.

You will note that it is proposed that an amendment affecting the powers of the legislature of the provinces to make laws will require the unanimous consent of all the provinces. Mr. Speaker, this in effect entrenches all the heads of section 92 of the BNA Act, but in particular, heads 13 and 16 that I referred to before.

I would like to withhold my comments on this section, until such time as I have reviewed the rest of the proposed act, but I would say in passing, that the clause, I believe, is substantially the same as the one proposed at the 1960, 1961 conferences of Attorneys General.

Now section 3 of the proposed act, to some measure, to some extent, qualifies section 2 in that it provided that no law affecting any provision of the constitution of Canada, that refers to one or more but not all of the provinces, shall come into force, unless it is concurred in by the legislature of every province to which the provision refers. This clause, Mr. Speaker, is unchanged from the 1961 formula and is included for the reason that it is thought undesirable to require the consent of any province not concerned with such legislation. It is suggested that inclusion of this clause can provide some degree of flexibility to the constitution, as under our constitution, all provinces are not constituted identically. The result is, of course, that where provinces enjoy certain rights, peculiar to that province, these rights can be altered without the participation of any other authority other than the federal government and the provinces affected.

Now section 4 of the proposed act, refers to amendment of constitutional provisions with respect to education, and remains unchanged from the 1960 — 1961 formula. This section provides that no law relating to education in any province other than Newfoundland shall come into force unless it is concurred in by the legislatures of all the provinces other than Newfoundland. Newfoundland, of course, enjoys a special position in that educational matters were expressly dealt with by its terms of union with Canada.

Now this provision with respect to education, has at all constitutional conferences been recognized as an area requiring unanimous consent of all the provinces. The protections afforded religious minorities within the educational system have been developed by a lengthy historical process which I think most people feel should not be altered without the consent of all the provinces.

Now, Mr. Speaker, section five, remains unchanged from the 1960, 1961 formula, and provinces for the amendment of constitutional provisions not covered by any of the preceding clauses and permits an amendment to the constitution to be made upon the concurrence by the legislatures of at least two-thirds of the provinces of Canada representing at least fifty per cent of the population of Canada, according to the latest general census. This would mean that at the present time concurrence of at least seven of the existing provinces' legislatures representing at least half the Canadian people. It is apparent, I think that this section will apply to many of the matters that require the consent of the provinces before the federal government is able to amend the constitution of Canada in relation to the executive government of Canada and the Senate and House of Commons, as excepted in section six.

I turn now, Mr. Speaker, to clause six of the draft act, which is an addition to the provisions of the 1960-61 formula. In 1949, the BNA Act No. 2 was enacted by the Imperial parliament that altered the provisions of section 91 of the BNA Act, and allowed the parliament of Canada to amend the constitution of Canada in all matters excepting those matters coming within the classes of subjects assigned exclusively to the province, or except those matters dealing with the rights or privileges secured to the legislature of the province, or to any class of persons with respect to schools, or as regards to the use of the English or French language. The 1949 act also precluded, prevented, the federal government from legislating with respect to those provisions that require a session of parliament each year, and with no parliament continuing for more than five years.

Mr. Speaker, it was thought that this power was a parallel to the power given to provincial governments to make laws exclusively in relation to the amendment of the constitution of the province. This 1949 act became class one of section 91 of the BNA Act, and during the 1960-61

conferences, some of the provinces, I am told, expressed the view that certain amendments to the constitution of Canada, with regard to the executive government and the Senate and the House of Commons, should require provincial assent before any alterations could be made in the constitution. The proposed section six is designed to allow such provincial participation in what are thought to be areas of proper provincial concern. That is the reason for the addition of this section to the draft act.

Mr. Speaker, I would draw hon. members' attention to the wording of the first part of the proposed section six, where it states that the parliament of Canada may amend the constitution of Canada, in relation to the executive government of Canada, and the Senate and the House of Commons. I would point out, Mr. Speaker that this is a substantial change from the wording of the present head one of section 91.

The areas requiring provincial assent before amendment are tabulated in the section, and you will see them listed there, and include, among others, the principle of proportionate representation of the provinces in the House of Commons and also matters dealing with the Senate.

I would also point out, Mr. Speaker, that if any amendment of the constitution is contemplated with respect to those matters tabulated in the section, it would depend upon the particular matter whether the amendment will require the unanimous consent of all provinces, or whether two-thirds of the legislatures of the provinces consenting with the majority of the population, would be sufficient. For example, Mr. Speaker, with respect to sub-paragraph (f), which excepts the right of the province to a number of members in the House of Commons, not less than the number of Senators representing such a province, and paragraph (h) which excepts the use of the English or French language. The unanimous consent of all provincial legislatures would be required before an amendment could be made. With respect to the other exceptions set out in section six, I believe that the two-thirds of the province rule would apply.

I now wish to move to section seven of the draft act which is a restatement of the law and must be read in conjunction with section 12 of the proposed act. The power of the province to make laws in relation to the amendment from time to time of the constitution of the province except as regards to the office of the Lieutenant Governor, is now contained in head one of section 92 of the BNA Act, 1967. It was thought desirable to re-enact this provision in the proposed act, at the same time, repealing head one section 92. This clause was not, Mr. Speaker, included in the 1960-61 draft formula.

Now clause eight makes it clear that any amendments not coming within clauses six or seven are to be dealt with under clauses one to five, as may be appropriate. Again, this clause was not included in the 1960-61 formula.

Clause nine of the proposed act, provides that nothing is to diminish any power of the parliament of Canada or of the legislature of the province existing at the coming into force of this act, to make laws in relation to any matter and thereby preserves any amending power, that the parliament or the legislatures may have at the coming into force of this act. Of course, I suggest, that this can only be interpreted to mean, those powers as amended by the proposed act and in particular, section 91 (1) of the present BNA Act, as amended by part two of the proposed act. This clause is similar to one which was included in the 1960-61 formula.

Now, Mr. Speaker, I referred earlier to the sections 10 and 11, that are concerned with the signing off acknowledgement of the imperial parliament to legislate with respect to Canadian matters and the tabulation in section 11 of the statutes, included in the expression "Constitution of Canada". These two sections complete part one of the proposed act.

Now, Mr. Speaker, before proceeding to part two of the proposed act, I would like to briefly recapitulate for the members of the house the effect of part one as the scheme of the second part of the proposed act is in the main designed to increase the flexibility of the Canadian constitution. You will recall that I said that before an amendment could be passed by the federal, government increasing or decreasing the powers of the provinces to make laws, the unanimous consent of the legislatures of all the provinces would be necessary. The same rule applied to rights or privileges, granted or secured in the legislature of the provinces and to those provisions relating to the assets of the provinces. In addition, amendments relating to education, the use of the English or French language, and section 51A requiring the number of members of the House of Commons,

representing the province to be not less than the number of senators, are committed to the same rule. By implication, in section two of the proposed act any amendment to the formula proposed, would require the consent of all provincial legislatures. The remaining areas of provincial concern would be committed to the rule requiring the consent of two-thirds of the provinces with the majority of the population. In particular, Mr. Speaker, I mentioned that this rule would apply to some of the matters excepted in section six.

Now, Mr. Speaker, to continue with the explanation of the proposed act, the second part is intended to amend the BNA Act of 1867. The first section of this part, and that is section 12, is related to section six and seven of the proposed act. By section 12, class one of sections 91 and 92 is repealed and I have previously explained the effect of this.

Now, I believe that the most important section of part two is section 13 that will enact a new section 94A of the BNA Act. This section provides for the delegation of legislative authority and its purpose is, as I have stated, to increase the flexibility of the Canadian Constitution.

Now the scheme of this lengthy section, section 13, is quite simple in that it first allows the parliament of Canada to make laws in relation to any matters coming within the classes of subjects set forth in heads six, ten, thirteen and sixteen, and you will recall that I mentioned 13 and 16 in section 92 awhile ago, property and civil rights and local matters. This permits the parliament of Canada to make laws in relation to any matters coming within these heads of section 92, where four of the provinces have consented to the operation of such a statute. This is the delegation from the provinces to the parliament of Canada. Or, here is another case of delegation from the provinces to the federal government, or where it is declared by the parliament of Canada, that the government of Canada has consulted with the governments of all the provinces and that the enactment of the statute is of concern to fewer than four of the provinces, and such fewer number than four have consented.

Now the delegation by the formula, therefore, is not with respect — I think this is important — is not with respect to fields of legislation, but rather with respect to a specific statute, and applies only to particular heads of section 92. Now head six is the establishment, maintenance and management of public and reformatory prisons in and for the province. Head ten refers to local works, and undertakings within the province that are not already within the jurisdiction of the federal government, and, of course, I have talked about 13 and 16 before, property and civil rights, and generally all matters of a merely local or private nature in the province.

Now similarly, the federal government can, through the operation of this section, delegate legislative authority to the provincial governments. But sub-section (4) of the section provides that this cannot be done unless the parliament of Canada has consented to the enactment of such a statute by the legislature of a province and a similar statute has been enacted by the legislatures of at least three other provinces. So here again, it's four. The federal government can delegate down to the provinces, provided there are four provinces agreeing. It is apparent then, that a delegation can be made by a minimum of four of the provinces to the federal government and from the federal government to a minimum of four of the provinces, both ways. It was thought necessary to provide for delegation to the federal government by less than four provinces, to provide for those matters that may be of such a nature that they have no significance to any other province, due to purely local conditions.

Mr. Speaker, I would point out to hon. members, that by sub-section six of the delegation section, it is always opened to either the provincial or the federal government to revoke its consent, and thereupon the statute which has been enacted, ceases to have effect within that province or throughout Canada, as the case may be. This section is in effect substantially the same as the clause suggested it at the 1960-61 conferences of Attorneys General. Mr. Speaker, it may be questioned, it may be asked as to why delegation is restricted to the four heads of section 92, that are set forth.

I would point out to members that these four heads are the only ones on which it is likely to be desirable for parliament to enact legislation. The remaining subjects relate to resources belonging to a province in respect to which delegation is not a serious possibility, to matters so local in character, that they would not be appropriate for legislation by parliament or to matters over which parliament has its own jurisdiction for federal purposes already under section 91.



Now furthermore, Mr. Speaker, I would point out, that delegation by federal government is not restricted to any particular subjects in section 91, that is, delegation by the federal government, so that a delegation can occur to the provinces on any matter coming within the federal jurisdiction.

Now before leaving part two of the act, I would also like to mention that any amendments relating to a delegated matter would have to be concurred in by the province, and this, coupled with the fact that a consent can be revoked, permits each jurisdiction to remain in complete control of the fields assigned to it by the BNA Act.

Now parts three and four of the act, Mr. Speaker, contemplate a French version of the proposed act, and part four, of course, is the usual coming-into-force section of any statute. Now, Mr. Speaker, I would like to apologize for having dwelt at such length on the provisions of this act.

I would now like to turn for a few minutes to the reasons why I feel that approval of the proposed act should be expressed by this assembly. As I stated before, no one can dispute the desirability of securing to the government of Canada the power to amend our own constitution. But some Canadians may criticize the amending formula, and the effectiveness of the delegation provisions of the proposed act.

Some Canadians will undoubtedly criticize the act, saying in effect that the requirements of unanimous consent on most provincial matters commits the constitution to an unwarranted rigidity, and they may consider that Canada would be better served by existing procedures where they may say there is at least the possibility of gaining an amendment in the face of opposition from a non-consenting province or provinces.

There may be others who will suggest that the act offends the a strong central government was contemplating, and there may be those who will consider the act has inherent in it, the opportunity for the provinces having too much to say about federal matters.

There may be others who will criticize the delegation section, suggesting that it invites the process of centralization of power in Ottawa, in what are traditionally provincial matters. There may be others who will criticize the delegation section on the basis that it invites a process of de-centralization of central powers and they will probably suggest in their argument, that this could result in the balkanization of our nation, in that there will be in effect, dissimilar laws on traditionally federal legislative matters throughout the various provinces.

Mr. Speaker, there will probably be some other people who will state that the delegation section cannot or will not be resorted to, suggesting that it will be difficult to find four provinces that will agree to the enactment of a statute. Then there may be others who will say that rather than patch the old fabric of Confederation, that Canada should have an entirely new constitution written to more adequately provide for existing issues facing our country.

Mr. Speaker, I am certain there will be advanced, and perhaps we will hear some of these in this house, arguments to support these propositions. I must admit, that if Saskatchewan had been the only province involved, we would have been prepared to accept the formula that did not involve the degree of entrenchment proposed. At the conference of Attorneys General last year, in my opening address to the delegates, I stated that this province would prefer to see less entrenchment than that contemplated by the Fulton formula of 1961. During the conference, I also stated that Saskatchewan would prefer to see delegation allowed to and by fewer than four provinces. These propositions were resisted by the majority of the provinces and it was apparent that the proposed act was as far as the majority was willing to go. I cannot in fairness to the other provinces attending the conference, reveal their stand on these issues, but I think I can say that Saskatchewan stood very nearly alone on many of these issues.

We were therefore, and are therefore, faced with the decision as to whether or not to resist the will of the majority of the provinces and thereby prevent the repatriation of the constitution. We are, as an integral part of Confederation, only justified, I think, in imposing our will on the majority, if we are of the opinion that the repatriation of the constitution is to be done at the expense of the constitution. That is, if the amending formula prejudices the maintaining of a strong central government, or if it in fact commits the constitution to an unworkable procedure,

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then and only then, I suggest, would we have been, or would we be now, justified in opposing it. Mr. Speaker, it is my opinion, that the proposed formula does not impair the opportunity to maintain a strong central government, nor does it in fact commit the constitution to unnecessary rigidity. I am confident that this new formula, is sufficiently flexible to provide an effective remedy where a need exists. I think that the flexibility is manifested in the formula itself and aside from the proposed act, I think it is to be found in the maturity of the various parts of Confederation.

As I have stated previously, since Confederation, no amendment has altered the powers of a provincial legislature, under section 92 of the BNA Act without the consent of the provinces.

We will be, therefore, under the proposed act, I believe, in no different position with respect to altering basic provincial rights than we are now. We will, however, gain an element of flexibility in these provisions I have been discussing for delegation of legislation to and from the federal government.

This provision will, I am confident, be used to advantage in meeting current as well as future problems, and, therefore, it does contribute to the flexibility of the constitution.

To suggest that the delegation provisions will cause a chaos of dissimilar laws where delegation occurs from the federal government to the provinces is to ignore the condition that delegation to the provinces may only occur where four provinces participate.

And, Mr. Speaker, to advance the proposition that the formula for amendment is unduly restrictive is also to suggest that the various parts of Canada do not have sufficient maturity to properly conduct the affairs of the nation. Such a suggestion, Mr. Speaker, views Confederation pessimistically, whereas it is my opinion that we can detect in Canada today a maturity that transcends narrow regional opinion and permits a more optimistic view of Confederation.

We can perhaps quote from examples of the past of what some provinces may feel were decisions based on these narrow grounds, but Mr. Speaker, I say to you, that Canada is in a period of transition where it is awakening and realizing that the various parts of Canada must extend their horizons. We need only think of the serious considerations now being given by some of the Maritime Provinces to the matter of merging into one province to discern this movement.

**An Hon. Member:** — New Scotia.

**Mr. Heald:** — Nova Brunswick. No longer can any province withdraw into its own narrow boundaries, as we all appreciate that to prosper and grow every province must participate in Confederation. To put it another way, we now appreciate that if the nation benefits, so will its parts.

Mr. Speaker, we have in the past few years, almost entirely erased the geographical boundaries that once partitioned and isolated the various parts of Canada. We are more than ever before inclined to think of ourselves as Canadians first and then as residents of a particular province. This has been effected by various factors as, for example, the ease of communications where daily we share the tragedies and triumphs occurring in other parts of this nation so that we are aware of issues in the rest of Canada as much as our own local province.

This maturity has been brought about also by more frequent travel outside the provinces in which we reside, and perhaps, most of all, through the understanding of the necessity for interprovincial and international trade.

I am confident therefore, Mr. Speaker, that this maturity, this concern for the rest of Canada, will be reflected in the decision of any province as to whether or not it should give its consent to a constitutional amendment. Indeed, I feel that this maturity that I have been speaking about, was displayed at the conference of Attorneys General last year, where delegates were concerned with the effect of the formula on the nation as much as they were with its effect on their particular province. I, therefore, believe for these reasons that we can be more optimistic about the success of the formula than the previous government was inclined to be a few years ago.

I have mentioned, Mr. Speaker, that there is some agitation for an entirely new constitution. Some people say, as I have mentioned, that a patch job on the present constitution is not sufficient. This may very well be the case, but to attempt such a rewrite would unduly delay necessary changes in the constitution. I have hinted, Mr. Speaker, that there are a number of constitutional problems facing the nation. A few that are generally recognized as matters requiring our immediate attention are: natural products marketing controls; federal securities legislation; and an effective bill of rights; a more equitable distribution of taxation powers. These issues were recognized by this province at the 1960-61 conferences. It was felt, however, that once the formula is accepted, work can commence in resolving these particular issues. I propose that if the amending formula is enacted, to urge immediately upon the federal government that a conference of Attorneys General be convened to start as soon as possible, an examination of the constitution to deal with these matters.

Mr. Speaker, I am certain that we will encounter no difficulty in obtaining these conferences. In fact, the federal government recently announced intentions to do just that.

The proposed act is only the start of a much larger job, that of updating the constitution, to take care of problems discovered by one hundred years of Confederation and problems imposed by one hundred years of social and economic changes and advances.

Mr. Speaker, in conclusion, may I say that while in Ottawa at the conference of Attorneys General, I asked that public hearings be held on the question of how the constitution should be amended. I urged that these hearings would be more beneficial if conducted before the constitution becomes domiciled in Canada, since it would provide an opportunity for the public to express an opinion on this important matter at the earliest possible date.

In view of the lack of unanimity on the part of the provinces to this suggestion, I don't believe that if the approval of this assembly is given to the proposed act, it should be made conditional upon such public hearings being held. Rather, I suggest we recommend that such hearings be held before the constitution is brought home. If the recommendation is not favorably received by the federal government, I then intend to urge upon them that it is imperative that such public hearings be conducted after repatriation.

I would suggest, Mr. Speaker, that the findings and conclusions of the committee established to hear and consider public submissions would be difficult for any government, whether federal or provincial, to resist.

Accordingly, Mr. Speaker, I move, seconded by the hon. Minister of Natural Resources (Mr. Cuelenaere):

That this assembly:

1. Expresses its approval of the draft of an act to provide for the amendment in Canada of the constitution of Canada contained in the White Paper entitled "An Act to provide for the amendment in Canada of the constitution of Canada", and tabled in this assembly the 5th day of February, 1965.
2. Recommends to the government of Canada that the proposed act be submitted to a committee of the House of Commons for consideration and that such committee be directed to hold public hearings and report thereon to parliament or alternatively that the proposed act be submitted by the government of Canada to the Senate of Canada with a request that it be considered by a committee thereof appointed for such purposes and that the committee hold public hearings and report thereon to parliament.

**Mr. R. A. Walker (Hanley):** — Mr. Speaker, I want first of all, to congratulate the hon. Attorney General (Mr. Heald) for the clarity and the simplicity with which he put forward the position of Saskatchewan in respect to this very important matter. I think that every member of this house, and I hope that everyone in Canada, realizes that we are now proposing to deal with an issue which

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is probably fraught with more gravity than any legal question that has confronted the Dominion of Canada in the last hundred years.

We are setting for ourselves the framework in which the basic law of our country will be governed perhaps forever, perhaps for a very long time. I know forever is a long time but we are setting the terms of reference in which political arguments in parliament and outside parliament will be governed on important issues which the Canadian people will face.

I think that it is very important that Canadians, all Canadians, give thorough consideration to this question before a decision is made on it. Because I think it is so important, Mr. Speaker, that all Canadians consider this question very carefully, I must regret and I must deplore the veil of secrecy which has surrounded the discussions heretofore by the provinces on this very important question. Saskatchewan, it is true, during the life of the previous government, had to conform and did conform with the decision of the provinces and the government of Canada, that these proceedings should be held in secret. We did protest at that time, however, and we have continually protested against deciding these issues in private when they are so important to the people of Canada.

I regret that there hasn't been more public information and more public discussion about the issues involved. I am heartened to note that there is now getting to be some editorial comment in newspapers across Canada which do not follow the monolithic approach that was taken to this problem over the past years. I think there is some reason to take heart that at long last, organs of public opinion are taking an interest in and making a critical analysis of the proposals and I would hope that now that public opinion seems to be waking up to this matter, that there will not be any last minute rush to put it over the line and to put it beyond the reach of Canadian consideration and decision.

I was pleased, Mr. Speaker, as I am sure all hon. members were to hear the Attorney General (Mr. Heald) say that Canada is becoming a single nation and that provincial interests and provincial boundaries are tending to fade to insignificance. I agree with that. I think that we are coming to think of ourselves as a nation rather than as a collection of provinces.

I would like to examine the proposals, however, that he has placed before us to ascertain whether or not the constitutional thinking of that conference is consistent with the impression which he paints of Canada's growth socially and politically and economically in recent years. However, I see, Mr. Speaker, that the time has grown late. I would like to have some time to consider the remarks of the hon. Attorney General (Mr. Heald) before taking further part in this debate and I would, therefore, ask leave to adjourn the debate at this time.

Debate adjourned.

The Assembly adjourned at 10 o'clock p.m.