LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
First Session — Fifteenth Legislature
46th Day

Friday, April 9th, 1965

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

COMMENT ON PRESS REPORT IN THE WESTERN PRODUCER

Mr. R. A. Walker (Hanley): — Before the Orders of the Day I would like to comment on a press report by Chris Higginbotham in the Western Producer. Mr. Higginbotham, in the article, said that Mr. McDonald, the member for Moosomin, the Vice-Deputy Premier, had referred to speakeasies operating in the city of Regina and according to the report, Mr. McDonald (Moosomin) is reported to have said "I was in one and so were you" and then it is alleged that a member shouted amid laughter "You were thrown out of one, Bob".

Well, Mr. Speaker, I want to make it perfectly clear that had I heard that remark I would have got up and I would have vigorously denied it on a matter of privilege, because Mr. Speaker, insofar as I know there has been no speakeasies in Regina. If there were, I have never been in one, and if I had been in one, I wouldn't have been thrown out . . .

An Hon. Member: — You would have walked out . . .

48th ANNIVERSARY OF BATTLE OF VIMY RIDGE

Mr. B. H. Bjarnason (Kelvington): — Mr. Speaker, by leave of the house, I would like to draw to the attention of the assembly the fact that today, April 9th, is the 48th anniversary of the Battle of Vimy Ridge — a day back in the First World War in 1917, when the Canadian corps captured Vimy Ridge in what was the greatest British victory of the war up to that time. Although the Canadian corps won other outstanding victories in the war, none caught the popular imagination nor was so peculiarly identified with Canada as the taking of Vimy Ridge. It is certainly fitting that Canada's greatest memorial to her fallen sons stands today on ground deeded in perpetuity by France to Canada on the top of Hill no. 145, the highest point of Vimy Ridge. I think all members of this assembly will agree that the contribution made by the Canadian Corps at Vimy Ridge is one that deserves remembrance by all Canadians in each year on this date.

Hon. Members: — Hear, hear!

Mr. A. E. Blakeney (Regina West): — May I, Mr. Speaker, on behalf of the members on this side of the house, join with the remarks of the member from Kelvington (Mr. Bjarnason). Anybody who has any familiarity with the horrors of World War I, I think cannot have anything but the highest admiration for those men who served their country at Vimy Ridge and in the trenches in France during that conflict. As will be obvious to members in the house, it was not my role to serve in the First World War, but my father did. He fought in the trenches in France for three years and was wounded and came home and his wounds hastened him to his grave, but these were the sacrifices made by men. Those who came back from the awful conflict were the fortunate ones whom we honor at the time of the anniversary of Vimy Ridge.

Hon. Members: — Hear, hear!

ADJOURNED DEBATES

The Assembly resumed the adjourned debate on the proposed motion of the Hon. Mr. Steuart (Minister of Health) for second reading of **Bill No. 42, An Act to amend The Hospital Standards Act**.

Mr. A. E. Blakeney (Regina West): — Mr. Speaker, I had made a few remarks on this bill the other night, and I had in the course of those remarks attempted to point out that problems with respect to hospital standards were not new problems in Saskatchewan. I had attempted to point out that the bill which is before us, Bill no. 42, has the effect of striking out from our law provisions which were

arbitrary powers. Indeed, most of the powers that would be used in an arbitrary manner by a hospital appeal board were vested in the chairman rather than in the board.

The act did include a number of procedural sections as to how the hospital appeal board was to work. I don't want to weary the house with a review of those procedural sections, I think the members who are interested can look up the statutes of 1964, and see how the board was to work. I think that no reasonable objections can be taken to the procedures on the basis that they were unfair, or arbitrary, or in any way destructive of the powers of the hospital boards or the physicians who would be bringing matters for adjudication by the hospital appeal board.

I would like to recall to the members of the house that after Judge Woods' report was received, and it was made public, groups were asked to submit their opinions on whether or not legislation should be based on this report, and a good number of groups submitted their views. These included the College of Physicians and Surgeons, the Saskatchewan Hospital Association, the Saskatchewan Federation of Labour, the Saskatchewan Wheat Pool, by way of a resolution passed at a delegates meeting, some Community Clinic groups and some other groups. Now, all this substantial number of public bodies, who commented on the recommendations of the Wood Commission Report, and may I recall those recommendations again, sponsorship, written reasons, and binding of appeal board, only one group opposes all of the recommendations, and that group was the College of Physicians and Surgeons. The Saskatchewan Hospital Association disagreed with the need for an appeal board, and some reservations about giving written reasons, but did not oppose this point blank, and had no objection whatever to Judge Woods' recommendation with respect to sponsor ship.

They had looked at the judge's recommendations with a fair amount of care and had felt that the sponsorship recommendation was a sound one, the one with respect to written reasons was marginal in their view, and the one with respect to the hospital appeal board they felt unable to agree with. All of the other groups agreed with Judge Woods' recommendations, either precisely or in general. The Wheat Pool's comment was by way of a resolution passed at a delegates' meeting and it rather dealt with the subject of simply asking the government to introduce legislation which would ensure the availability of hospitals to all qualified doctors. This, of course, goes much farther than Judge Woods' recommendations.

Now Mr. Speaker, I have taken a rather long time to review what the essential parts of the 1964 legislation, which is now sought to be struck off the statute books. I have dealt with the general problem of hospital admitting privileges and I have pointed out that this problem is by no means confined to Saskatchewan, nor is it in Saskatchewan confined to the years 1962 and thereafter. I have amassed a good deal of medical opinion to suggest that it is imperative that a doctor practicing under North American medical conditions have access to hospitals to treat his patients. I have pointed out the problems with respect to hospital staff privileges, that have occurred in earlier years. I have referred members of the house to Judge Thompson's report at North Battleford, and to other occasions on which the College of Physicians and Surgeons have taken a stand in favor of a binding appeal board.

Now, Mr. Speaker, since the passage of the act of 1964, many of the problems with respect to hospital privileges have been solved in whole or in part, and there are, no doubt, many factors which contribute to the solution of these problems. There is, I think, no doubt, that some of these problems arose out of the controversy surrounding the medical care dispute of 1962. With each passing month, as that dispute recedes into time, feelings generated then, lessen, and people are able to put this particular dispute in its proper perspective. This is particularly so since the general success of the plan, and the fact that some of the worst fears that were spread abroad by opponents of the plan have not materialized, has led really to a steady decline in concern felt by those who initially had reservations about the plan.

Now, members opposite, no doubt, will say that the fact that a new government came into power contributed to the lessening of tensions. They have already said it and I don't at this time, want to dispute that proposition. I think that there is a good deal to be said in rebuttal to the proposition, but I am afraid that might lead us off of the particular bill at hand and I want to direct my attention to Bill no. 42 and the problem of hospital privileges.

Now, the provisions of the 1964 act, providing as it did, ready

introduced into the Hospital Standards Act by the 1964 act, and at that time I was reviewing the provisions of the 1964 act which will be struck out, if Bill no. 42 is enacted by this legislature. I had referred to a goodly number of the provisions of the 1964 act, I had pointed out that the act sets out the criteria to be used by hospital boards in allotting hospital staff appointments. I had pointed out that some criteria were enunciated and some criteria were prohibited, or proscribed. I had then pointed out that the act provided that reasons were to be provided in the case of a denial of a hospital staff appointment and I had pointed out that the person who gave the written reasons on behalf of the hospital was protected from any legal action as a result of the reasons which may have been given,

Now, Mr. Speaker, there are a number of other general provisions in the act — I do not propose to outline them all — I simply want to point out that the act also provided that the appeal board could be used by hospitals to provide them with informal advice prior to their giving a decision of a hospital staff appointment. It was not necessary that the matter be referred to the hospital appeal board through the minister. It could be done by the hospital on an involuntary basis and without any binding commitment on the part of the hospital to accept the recommendations of the appeal board. This, it seems to us, provided hospitals with a very good agency which they could consult, whose impartiality could not be doubted, but whose decision would not necessarily be binding on the hospital board if they felt it was wholly inappropriate.

The provisions also provided that the hospital appeal board would not apply to hospitals unless the Minister or Public Health so designated. This was to meet a specific objection raise by the Saskatchewan Hospital Association. In conversation with the Saskatchewan Hospital Association, they readily admitted that there were hospitals who had problems with respect to hospital privileges, but they said these hospitals are relatively few I number and those hospitals which have successfully met all their problems do not feel that the provisions of the act, with respect to the hospital appeal board, ought to apply to those particular hospitals. Accordingly the solution was devised of providing that the bank of sections erecting the hospital appeal board and providing for its procedure would not apply to any hospital unless that hospital was designated by the Minister of Public Health. The provisions with respect to the hospital appeal board only apply where there was a problem, a problem which was sufficiently serious to cause either the hospital board or the doctor to appeal for the assistance of the Minister of Public Health, and sufficiently serious so that the minister would, after considering this request, decide that the mechanism of the hospital appeal board ought to be used.

So there is no suggestion that the hospital appeal board was able to interfere in the provision within the jurisdiction of hospitals where things were running smoothly. There was no possibility of the hospital appeal boar provisions coming into play unless there was a problem area. This, as I indicated, was a provision inserted in order to meet the point raised by the Saskatchewan Hospital Association.

The provisions setting up the hospital appeal board are probably relatively familiar to members. The board was to consist of an odd number of people, seven in the manner in which it was set up, I will repeat that it was an odd number of people, and not a number of odd people, and I think that a review of those who were appointed would . . .

Hon. D. Steuart (Minister of Public Health): — Not again . . .

Mr. Blakeney: — Not again, all right, I am saying there were seven members, one was to be a member of the judiciary, and it will be recalled that Mr. Justice McLellan was appointed, four were to be doctors, two to be selected by the college, two to be selected by the government, and two were to be lay people. This was the arrangement which provided for a majority of medical men on the board, a judge who was chairman, and two people who brought a public point of view.

Certainly it is clear that the board was well qualified to give expert medical advice, staffed as it was by four physicians out of seven. The board was qualified to give advice on an impartial basis, chaired as it was by a distinguished member of our judiciary. The fact that the chairman was a member of the judiciary allowed a number of the provisions which are frequently included in acts, to cover such quasi-judicial boards, to be varied, so that the board would not have power to compel witnesses or administer oaths, but these powers were restricted to the chairman. This gave an additional safeguard to anybody who felt that the board might exercise any

solutions for the problem surrounding temporary admitting privileges and providing a solution to the problems which resulted from delays in dealing with applications for staff appointments, has doubtless been a major contributing factor in lessening the difficulties. I think that members opposite are being remarkably inconsistent when they point out that during the twelve months when this act has been on the books, things have improved and, therefore, we should do away with the act. It seems to me that when we have evidence that the act has been on the books for twelve months, and that during those months there has been an improvement in hospital staff appointment problems, we should at least conclude that the act has contributed to that improvement. I think member opposite, and particularly the member for Prince Albert, the hon. Minister of Public Health (Mr. Steuart) in suggesting that all the problems have evaporated, is definitely over-stating his case. We have seen that there were difficulties before the medical care plan was introduced, and there will be difficulties in the future when all problems with respect to the medical care plan have been resolved.

Prejudice of all kinds is still part of our society, we will still be faced with clashes of personality in the future as we have in the past. We will still see professional competition. We will still see philosophical differences, of the type referred to by Judge Woods. All of these problems have contributed to hospital staff appointment difficulties in the past and will continue to contribute to them in the future. Certainly it can be contended that all problems with respect to hospital staff privileges have not been solved. If any member wishes to search the records of the Court of Queen's Bench, in Saskatoon, he will find the Statement of Claim issued by Dr. Rayman in Biggar, alleging that he has been the victim of discrimination in obtaining hospital privileges. Whether or not his allegations are well founded is not for me to say — that is up to the court to decide, but the fact that he believe he has a grievance, and the fact that he thinks there is no other redress except to go to a court of law, is sufficient indication to me that difficulties continue.

It is particularly unfortunate that he has had to go to a court of law without having an opportunity to state his case before any impartial tribunal, even the Minister of Public Health, and it may be that this is the particular solution recommended by members opposite, but before they leap to the conclusion that the courts of law are the best agencies for deciding these issues, I would suggest they read the Statement of Claim, read the nature of the allegations, and consider how difficult it will be for a court to deal with those appropriately and how ineffective and unfortunate, both from the point of view of the doctor, and the hospital, is the resolution of these problems by the, in my view, the inadequate facilities available in the courts of law. It seems to me that this is a case where the hospital appeal board provided in the act of 1964, could have served a very useful function, not only for the doctor, not only for the hospital but certainly for the patients of the doctor concerned. Notwithstanding the alleged persuasive qualities of the Minister of Public Health, (Mr. Steuart) we have another first for Saskatchewan, hot litigation on hospital privileges, a dispute in court between a doctor and a hospital alleging discrimination. Now the minister has been telling us that harmony has been restored. The facts are that for the first time for many, many years, legal action alleging discrimination has been commenced in our courts.

Now, the nub of the problem is, of course, not one concerning doctors, or not one concerning only hospitals, but it concerns, and it concerns vitally, the people of the province who may find themselves patients in our hospitals. When a doctor, and I have said this before, and I propose to say it again, when a doctor is denied access to a hospital, denied the right to treat his patients there, one of the chief sufferers, perhaps the chief sufferer, is the patient. A patient who consults a doctor and who later finds that he needs hospital care, and who further finds that the doctor is denied access to a hospital, is faced with a difficult and an entirely unjust choice — a choice which he ought not to have to make. He must either decide that he will be treated at home, and lose all the benefits of the hospital care in the hospital to which he probably contributed to build and probably contributes to support, or alternatively he must decide that he will use the facilities of that hospital, and lose the benefit of being treated by the medical practitioner who he has chosen and who is familiar with his particular medical problem.

Now, you may believe that this is a theoretical problem but it is by no means a theoretical problem. I can assure hon. members that it is a very real problem and that people in this province have been denied the use of the hospitals for which they have paid and that they have been denied the right to be treated there by practitioners who were perfectly competent, concerning whose competence no reasonable objections could be raised, and who were denied access to hospitals for reasons which had nothing to do with

medical competence, or with character, and which were wholly extraneous to the consideration of whether or not a doctor could have hospital privileges.

Now these are the facts and they are undeniable facts. Patients have been denied the right to be treated by doctors who are perfectly competent, and who have been found by impartial observers, or inquirers, to be perfectly competent. This, in my view, is grave injustice. Citizens have been denied what I think is a fundamental right, a right that inheres in them by reason of the fact that they are taxpayers. They are the taxpayers that help to build and help to support these hospitals, a right that inheres in them because they are citizens, and as citizens they have the right to be treated by the doctor of their choice if he is competent in the facilities which are provided by the public just for this purpose.

Now, I remain unconvinced that citizens in the future will not be denied these same rights. Certainly nothing the Minister of Public Health (Mr. Steuart) has said convinces me that these problems will not arise in the future. He assures us but he does not have facts on which to base his reassurance. Citizens have been denied their right in the past. In 1964, the legislature acted to protect those citizens. There was a wrong, a remedy was provided, and in my view, Mr. Speaker, that remedy should stand.

Mr. Steuart: — Never used it . . .

Mr. Blakeney: — Now, this is an interesting observation by the Minister of Public Health (Mr. Steuart). He somehow wants us to believe, for example, that the only provisions in that act are the provisions in respect to the hospital appeal board. In point of fact, as I have repeated, I thought in a little tired way, but I haven't got it across to him yet — that this act provides criteria for discrimination, or for non-discrimination, and these have been used. These have been the basis upon which our hospitals have acted during the past year. It provides . . .

Mr. Steuart: — Never used the act . . .

Mr. Blakeney: — Is the hon. member saying that the hospitals of this province defied the law for twelve months?

Mr. Steuart: — Never used the act once.

Mr. Blakeney: — It is not a case of using the act . . .

Mr. Steuart: — It never came up.

Mr. Blakeney: — The act was used by every hospital board who looked at an application for a hospital staff appointment.

Mr. Steuart: — Nonsense.

Mr. Blakeney: — They looked at them, the knew what criteria were appropriate, what criteria they were required to apply legally, and they applied them, and if the minister opposite said that the hospitals of this province have ignored this law for a year, I say that he is casting an absolutely unwarranted aspersion on those hospitals. Absolutely unwarranted . . .

Mr. Steuart: — Just like your speech. Just like that case in Biggar.

Mr. Blakeney: — I think that there is no reason to suggest that the hospitals of this province have failed to do their legal duty in consulting the law, and in dealing with doctors in the manner which the law provided. Now, I think it is a little difficult to say whether or not the law actually prohibited any hospital from discriminating. One cannot say that if there is a speed limit of 60 miles an hour, and everybody goes 59 miles an hour, no one can say that this is true because of the 60 mile speed limit.

You can't prove that if there had not been a speed limit everybody wouldn't have gone fifty-nine. But I think you can assume that where in the past, there have been delays in dealing with applications for hospital privileges, and where a law is passed which suggest that replies must be given within a reasonable time, it can not be assumed out of hand, that the

law had no force or effect. I think the presumption really is the other way. However, I think that the great majority of hospitals, and perhaps all of them, would have dealt with these matters expeditiously. I don't know. It hasn't' been true in the past, as Judge Woods found. But let us hope that most of the hospitals will have wanted to deal perfectly fairly and impartially with applications for hospital staff appointments.

However, under these circumstances, I think, it can't be reasonably contended, as is contended by the Minister of Public Health (Mr. Steuart) that the act has had no effect, that it hasn't been in operation — this sort of thing. The presumption must be that the hospitals did act in accordance with the legislation and certainly to the extent that any possible discrimination was avoided, or to the extent that any possible delay in dealing with hospital staff appointments, were avoided, the act is all to the good. If, in fact, there were not going to be any cases where these laws would be breached then the law itself does no harm on the books and there is no particular reason for acting to strike it off the books.

I am really rather puzzled as to know why members opposite want to strike out these provisions from the books. What does the act provide which the Liberals want to change? Well, it provides that in deciding on hospital privileges the decision should be based upon professional competence, training and experience. I want to know whether the minister opposes this. I want to know whether the government opposes this. And I want to know whether any single hospital board in the province opposes this, and if nobody opposes it, why take it out of the law?

I suppose it is argued that the standard is unnecessary. Well, Judge Woods thought not. He found it was a fact that, not competence, but philosophical differences among doctors had been a basis for withholding privileges. He thought this was wrong. I think it is wrong and I am surprised that members opposite do not think it is wrong.

The other possible solution is that they think that philosophical differences shouldn't' be permitted and I would like to know whether we have reached a point in this province when philosophic differences aren't permitted? I want to say that the CCF believes that our citizens, whether lay or professional, should enjoy the right to differ on philosophy. It is our view that no person should be victimized for his philosophical beliefs. We believe that differences in philosophy should play no part in the granting of hospital privileges.

The act of 1964 said that professional competence, and not philosophy, should be the criterion. We agree with the act and we want to know why the Liberals want to change it.

Mr. Steuart: — Didn't you make that speech last time?

Mr. Blakeney: — No, not this one.

Mr. Steuart: — Didn't you?

Mr. Blakeney: — I think not.

An Hon. Member: — He must have. He doesn't know that much.

Mr. Steuart: — Are you sure that's not the same speech?

Mr. Blakeney: — It's quite remarkable how a small amount of knowledge can be spun out but I found it necessary, Mr. Speaker, to go very carefully along this line because it seems to be that a very careful and somewhat labored presentation is necessary in order to make any impact on the member for Prince Albert (Mr. Steuart), because I have said, not once, but twice, not twice but three times, perhaps, that this act contained other things beside the appeal board provisions and he keeps standing in his place and saying "Oh, the act hasn't operated because the appeal board hasn't operated."

What else does the law provide that the government wants to change? Well, the act prohibits discrimination on the grounds of race and creed and color. Does the government object to this? Does the minister object to it?

Mr. Steuart: — I just object to you.

Mr. Blakeney: — Does he believe that any single

hospital board in the province would object to that? Does he believe that there should be discrimination on the grounds of race, or creed, or color in Saskatchewan hospitals? If not, why does he want to change the law? Or does he think perhaps that Saskatchewan is so pure that we don't need laws respecting discrimination?

Mr. Steuart: — Under the Liberals it will be.

Mr. Blakeney: — We all know better than that. I think everybody but the member for Prince Albert (Mr. Steuart) at least, knows better than that.

As the Premier has pointed out in another debate, we are prone to human weaknesses around here too. We have been guilty, on occasion, of bearing some feeling of discrimination against our native people We are not above discrimination any more than any other people in Canada or in the United States. We can fall into the trap of discrimination just as easily as the next one. We need laws to protect our civil liberties just as do all Canadians and all Americans. We have saluted Mr. Diefenbaker's Bill of Rights, and we have hailed President Johnson's initiative in the civil right movement in the United States. I know no reason why we should turn our back on laws against discrimination. They have been found to be necessary elsewhere, they are necessary here. I want to know why the Liberals want them off the books?

Some Hon. Members: — Hear! Hear!

Mr. Blakeney: — Well, if the laws were needed and they were, so we need laws to protect our liberties.

I have heard no argument to suggest that these laws against discrimination ought to be repealed.

Mr. Steuart: — Sit down and give me a chance. I'll settle the argument.

Mr. Blakeney: — No one has explained why, and the hon. Minister of Public Health (Mr. Steuart) introduced the bill. I would have thought that he would have addressed his attention particularly to attempting to justify a proposition which is inherently so difficult to appreciate as why laws preventing discrimination should be struck off the books. But I read over his speech with care and see no justification for this rather remarkable act at all. I saw no justification for an act which would strike from our legislation, laws which prohibit discrimination on the grounds of race or creed or color. No one has explained why these should be struck off our statute books, and I fancy no one has because no one can put up a reasonable, rational, believable, explanation as to why we should not turn our back on laws prohibiting discrimination.

Now the law prohibits discrimination on the grounds of non-membership in the private medical organizations. Membership in the College of Physicians and Surgeons is, of course, required. Now, does the government believe that membership in a private medical organization, not connected with the hospital, should be necessary for a doctor and his patient to enjoy hospital privileges? I wonder whether the minister believes this. I wonder whether the government believes it. I wonder whether either the Premier, or the minister, who are just leaving the chamber, believe this. I wonder if the government opposite can put up one rational argument in support of that proposition. Do they believe that there should be discrimination on this ground? If they do not, why should the law be changed? Changed to permit that very discrimination?

Now, the law now prohibits discrimination on grounds that a doctor practices in association with a community clinic or a mutual benefit association. Now, does the government believe that practice in association with a co-op lay organization should be grounds for discrimination against a doctor in the respect of hospital privileges? Does the minister believe this? Does anyone believe this? Does any hospital in the province believe this? And if they do not, why do they want the law changed? Changed to permit discrimination on this very ground?

Now some people in this chamber will remember when other co-op organizations were subject to discrimination. When other co-op organizations were boycotted by organized wholesalers, by organized drug companies, when co-operatives were discriminated against in a goodly number of other ways.

There is nothing new about discrimination against co-ops. It is not ended. It will carry on but I suggest to members of this house that it should not reach into our hospitals. The law now prohibits it. The changes proposed will permit this discrimination. I oppose those changes and I am surprised that members opposite do not.

The law now provides that when a doctor applies for privileges, he should be told whether he is accepted or rejected. Surely, he and his patients are entitled to know, within a reasonable time, whether privileges are to be denied or not. Certainly, a reading of Judge Woods' report makes it perfectly clear that there have been unreasonable delays in dealing with that in the past. A doctor and his patient should know. They have to make their plans. Patients should know, within a reasonable time whether or not they are forced to make this unpalatable decision which I mentioned earlier. Do they give up their right to use their hospital or do they give up their right to use their doctor? It is a difficult decision which should not be forced on anyone quickly. A patient has a right to know as soon as reasonably possible what the status of his doctor is in his hospital. Surely that is not unreasonable!

I cannot understand why anyone would want to take that provision out of the law of Saskatchewan. The law as it now stands says that a doctor who is denied access to a hospital, and we have already noted that in many cases this is tantamount to a sentence of professional death, shall be entitled to written reasons for this denial.

Now, I think that when a doctor, is denied access to a hospital which is essential for his professional practice, it is surely reasonable and in fact, it is only minimum justice that he be told the reasons for his denial. Now a man cannot be denied a drivers licence without an opportunity to show cause why it cannot be restored. I know that the hon. the Attorney General (Mr. Heald) is very, very critical of these provisions and saying that he ought to have a right to a hearing before his licence is, in any way, touched and maybe the Attorney General is right. Maybe the Attorney General is going to improve upon the present provisions and provide for a hearing before a licence is denied. Fine. But apparently doctors may have their hospital staff appointment denied or suspended or cancelled in secret, without any hearing, and without even any right to know the reason why. The act now provides that he will at least get the reasons and the Liberals want to wipe out that little right.

Mr. Speaker, what arguments do they use to justify this assault on what were thought to be liberties which doctors and patients enjoyed? What are their reasons? Well, they say that hospital boards should have the sole right to exercise this power. But, Mr. Speaker, this disguises the real question. I have interviewed hospital board after hospital board and many of them didn't deny that there had been discrimination. They simply said that they believed themselves forced to accept the recommendation of their medical staff. When asked why they had to do this, they said that the smooth operation of their hospital demanded it, the welfare of the patients as a whole, demanded it. In short, they were not free in any real sense to accept or reject the recommendation of their medical staff. They had autonomy to say "Yes" to their medical staff but no autonomy to say "No".

Mr. Justice Woods in his report, makes this abundantly clear. He makes it abundantly clear that the disputes in every case, were not disputes between doctors and hospital boards but disputes between one group of doctors and another. He made it equally clear that even a powerful board like that of the Regina General Hospital, containing leading businessmen, seasoned municipal politicians and a medical doctor, were forced to agree that two applicant doctors were unethical when such was clearly not the case. There wasn't any evidence that suggested these doctors were unethical — not any evidence, at least that Judge Woods found after a very exhaustive hearing and yet this powerful, well-managed hospital was forced to accept the recommendation of their medical staff, that these doctors were unethical on pain of severe disruption of their hospital. This is what is called autonomy.

Now, to leave hospital boards and I have pointed out that this is a powerful board, this isn't a little board of people who aren't used to dealing with difficult problems. There are some pretty seasoned fellows on that Regina General Board; to leave hospital boards without recourse in this manner is to leave them subject to the very pressures identified by Judge Woods in his report. If you want to know that this is not new, read Judge Thompson's report of North Battleford and he will say there that the administration at North Battleford were subject to pressures which a hospital administration ought not to be subject to, but they were and they had to bow to those pressures. In North Battleford, they had to do it and thereby work a grave

injustice as Judge Thompson found, on some perfectly competent doctors.

Mr. Steuart: — They didn't have to do it.

Mr. Blakeney: — They had to. There was no alternative, if they were to discharge what they conceived to be their larger responsibility to their patients, and that is the real nub of the problem.

These boards feel that they can't have their hospital completely disrupted by a dispute between them and their medical staff or all of the patients will suffer, and they make that unfortunate decision if we had to decide whether one doctor shall be done an injustice, or all our patients shall suffer, we will go along with an injustice to that one doctor.

Mr. Steuart: — Will the hon. member permit a question?

Mr. Blakeney: — Certainly.

Mr. Steuart: — If the hospital boards feel so strongly about this and the need for this appeal board, then why did the organization that represents them, the Saskatchewan Hospital Association, oppose this legislation and still stand opposed to it?

Mr. Blakeney: — Mr. Speaker, I did not say that the hospital boards felt the need for this legislation. I . . .

Mr. Steuart: — Oh, you feel that they have got the need for it. Big brother knows best.

Mr. Blakeney: — No, no. I feel that any applicant doctor feels that they have need of it, because it is perfectly clear, as I have already pointed out, that they feel constrained to support the College of Physicians and Surgeons on this.

Mr. Cy MacDonald (Milestone): — How do you know that?

Mr. Blakeney: — How do I know that? I read Judge Woods' report and at place after place, he says that the hospital board was not free to make a decision and if you can get any other meaning out of this report, I invite you to get it.

Mr. Steuart: — If he said that, then he didn't know what he was talking about. They were free and they have always been free to make their decisions.

Mr. Blakeney: — They were free only at the risk of very severely disrupting their hospital.

Mr. Steuart: — Nonsense.

Mr. Blakeney: — Nonsense! You could have told your story to Judge Woods or Judge Thompson. It is all very well for the minister to say "nonsense" but he wasn't there. He didn't hear the evidence. He didn't hear the witnesses. And yet he feels perfectly clear to say that Judge Woods report is nonsense when he wasn't there. He didn't hear the witnesses. He didn't see the testimony. But big, big number three, who knows all about it sitting in his chair . . .

Mr. Steuart: — I am not trying to be Number One like you.

Mr. Blakeney: — You are only thinly disguising your desire to be Number One.

Mr. Steuart: — . . . a better man than you, even with a sore back.

Mr. Blakeney: — I never denied that I will concede it at this point.

Mr. Steuart: — Better not turn it on you though . . .

Mr. Blakeney: — I want to say this, Mr. Speaker. When the member for Prince Albert (Mr. Steuart) without, as I say, hearing any of the witnesses or seeing any of the testimony, either that was heard by Judge Woods or Judge Thompson, indicates that both of these experienced members of the judiciary are writing nonsense, and when he, sitting in his chair, not having been familiar with the problem at the time . . .'

Mr. Steuart: — Oh yes, I was.

Mr. Blakeney: — . . . decides out of all the omniscience which he can command, that these decisions are nonsense, I think we know with what sort of a man we are dealing in terms of judgment and perspective.

Some Hon. Members: — Hear! Hear!

Mr. Blakeney: — Now, if anything can be gleaned from a reading of these reports it was that these hospital boards were not free to make the sort of decision which they might have made had there been no dispute between members of the medical staff.

An Hon. Member: — Nonsense.

Mr. MacDonald (Milestone): — How about school boards?

Mr. Blakeney: — I don't know about school boards but if indeed there are those acute problems and if indeed a judge investigates, and if indeed he finds, as Judge Woods found, and Judge Thompson found, that the administration were subject to absolutely unreasonable pressures, I think will reach the conclusion that other arrangements ought to be made with respect to decisions made by school boards. I think that day has not come — there is no evidence with respect to school boards — there is very ample evidence with respect to hospitals.

The Assembly recessed at 5:30.

Mr. Blakeney: — Mr. Speaker, when we rose at 5:30 I had outlined the contents of the bill which is being repealed. I had pointed out with some particularity what Bill 42 proposed to do by way of repealing the prohibitions against extraneous considerations other than character and competence, playing a part in selecting doctors for hospital staff appointments. I pointed out that the bill, which is sought to be repealed, prohibits discrimination on the grounds of race, creed, or color, on the grounds of membership in private medical organizations, on the grounds of association with a lay co-operative organization, and I had asked myself and members of the legislature what reasons could be suggested which would warrant the removal from the laws of this province, all this very useful and very valuable legislation. I had particularly dealt with the reason, if I may dignify it with that word, put forward by the Hon. Minister of Public Health (Mr. Steuart) based upon the need for complete, absolute, and exclusive autonomy for hospital boards, and at that time as we closed at 5:30, I was pointing out that the present organization of medical services in our hospitals, in fact, does not give hospital boards the measure of autonomy which it is represented, they have. I had pointed out that Judge Woods and Judge Thompson before him, had found that notwithstanding the apparent legal position of hospital boards, freely to decide on questions of hospital privileges, it was very apparent that even a powerful hospital board felt itself not free to make decisions which might be contrary to the recommendations of its medical staff. As I referred hon. members to the Woods Commission Report, it was very clear from the evidence heard by Mr. Justice Woods and his finding which he incorporated into his report, that in point of fact, the hospital boards have, if they are to take cognizance of the value to all of their patients, of harmony within their hospital, they in fact do not have the untrammelled autonomy to make a judgment which is contrary to the recommendation of their medical staff. In fact, then the autonomy which the minister is urging should be free and untrammelled, is the autonomy of the medical staff to accept or reject new members. An autonomy of the medical staff to operate the hospital as an organization or as an institution, to which they have the right to accept or reject new members to the medical staff.

I think, Mr. Speaker, that that is an unfortunate set of circumstances — an unfortunate condition but is in fact what exists in Saskatchewan.

I am not by any means saying it is confined to Saskatchewan, but all of the evidence, which is available to this house, suggests that in many hospitals this is in fact the situation. My own conversations with several hospital boards amply confirms this and I think that a simple declarations that Judge Woods doesn't know what he is talking about, or Judge Thompson doesn't know what he is talking about, or the 5,000 pages of evidence can be ignored, or whatever phrases the declaration is sought to be couched in, is not sufficient to rebut the clear evidence that hospital boards do not in fact have the autonomy which the law purports to given them. If this is the case, as I assert it is, then to leave hospital boards without recourse in this matter, to leave them without an opportunity to consult on an informal basis, if they wish, or on a formal basis if they wish, a hospital appeal board which is acknowledged to be impartial by all, is to leave these hospital boards subject to the very pressures which were identified by the two judges I have mentioned. It is, in my submission, to leave medical staff appointments in the hands of the medical staff. It is to leave the door open for all of the arbitrary forces which Judge Thompson and Judge Woods talked about. It is to leave the door open for judgments of hospital staff appointments based upon personality clashes as Judge Woods found; based upon professional jealousy as Judge Thompson found; based upon philosophical differences as Judge Woods found.

I want to ask members opposite whether they believe that these are the standards which ought to apply. Certainly members on this side of the house answer to that question "no". We believe that the criteria set out in the act are the proper standards. We believe that the law ought to provide that personality clashes, professional jealousy, philosophical difference, have no place in determining whether or not a doctor has an appointment to the staff of one of our hospitals.

It certainly is not possible to legislate away differences. It is only possible to provide that they be fought out in the forum of the medical profession and not be imported into our hospitals. It is perfectly clear, I think, that there are differences between different groups in the medical profession and no amount of legislation is going to make those differences vanish. All we say is that the proper forum for the decision with respect to these differences is not a hospital, is not the medical staff of a hospital, but if they wish to determine them in this way, the appropriate medical organization. These are not disputes between doctors and hospital boards as had been amply shown and there is no reason why this should be fought out in our hospitals. The sole purpose of this legislation is to exclude from the area of the hospitals these differences which probably exist.

We do not say that this legislation will cause these differences to vanish. We just say that these differences ought not to be the subject of disputes within hospitals.

Now, there is another reason which is sometimes advanced, and it runs this way. It is said that hospital boards are legally responsible for what doctors do in hospitals, therefore, they must have the unqualified right to exclude doctors from hospitals. I spoke in this house a year ago and I asked anyone and I included in that anyone, charitably I think, the member for Athabasca (Mr. Guy), if he could name on single case in Canada where a hospital board had been held responsible for the negligence of a doctor practising within that hospital. That was a year ago, and I have not heard anyone suggest in the debate last year, or in the debate this year, that they could name a single case where a hospital board was held responsible for the malpractice of a private practitioner within its walls. I say they cannot find a case because I don't believe there is a case. Now I may be mistaken, I obviously have not reviewed every law report in Canada, but I have never heard of a case in which a private practicing physician was guilty of malpractice within a hospital and the hospital board was held liable.

I, therefore, find it very difficult to understand the logic of the argument which says because the hospital board will be liable they ought to have the unqualified and arbitrary right to exclude from their walls any doctor, regardless of is qualifications. It seems to me that either this is the law or it is not the law. I suggest that it is not the law because the editorial writer of the Leader Post chooses to say it is the law. I would invite him in his sundry editorials on this vexed legal problem to cite one or two cases in which private practicing physicians have been help liable. I suggest that he will not find any cases and he will not find any cases because it has been established that where the doctor is qualified and Bill no. 42 seeks to wipe out the provisions of the 1964 Hospital Standards Act, and that act made clear that qualifications for a proper criteria, but where the doctor is qualified, then the hospital is not responsible for malpractice of that doctor within its walls.

This is true of a private practitioner who is not an employee of the hospital as everyone will know, I think the medical profession would be the first to suggest that a doctor who is on the medical staff of a hospital is not an employee of the hospital if he is a private practitioner, and if this is so, this is the case we are dealing with, we are not talking about salaried interns or anything like that. We are talking about private practitioners, and in this case where the doctor is qualified and where the present law allows the hospital board every discretion with respect to qualifications. Where the doctor is qualified, the hospital board is not responsible.

So, this argument is, in fact, a specious argument. Other arguments are sometimes used, sometimes it is argued that the present machinery is good enough, that there are provisions under The Hospital Standards Act to solve all the problems. Well, I may say that that machinery was used at North Battleford, at Notre Dame Hospital. You can see the report of Mr. Justice Thompson. It is in the Legislative Library, and this procedure will be found to have been wanting there. The result was that qualified doctors, in fact doctors with specialist qualifications and specialists in surgery, which are not too easy to come by in a city the size of North Battleford, doctors with these qualifications left, and they left because of professional jealousy.

Judge Woods obviously was familiar with these provisions. He is a man who is, as I say, perfectly qualified in the field of law. He knows the provisions of the Hospital Standards Act, and the regulations. He had every assistance within the conduct of his Royal Commission Inquiries. He had two assist him, people who were very familiar with the provisions of The Hospital Standards Act and its requirements. He considered, I should have thought, the question of whether or not the existing remedies were sufficient — he found them wanting.

Similarly I find them wanting. I find it rather remarkable that in 1962, if there were as many problems as members opposite say there were, and in 1963 not one doctor, nor one hospital, asked to use these provisions, because they simply are not adequate for this problem. The provision s which presently are contained in the regulations to The Hospital Standards Act are designed to deal with disputes between physicians and hospital boards. They presuppose that there will be on the one side, the physician who will be supported by his medical organization, and on the other side the hospital board. They are not designed, nor competent, to deal with questions which are fundamental differences between different groups of doctors. This is the problem which we have had. This is the problem identified by Judge Woods. This is the problem sought to be dealt with by the 1964 amendments, and this is the problem which cannot be dealt with by the remedies which are provided by the regulations to the Hospital Standards Act. So, those who say, as the member from Milestone (Mr. MacDonald), I believe, did, and many others have said on other occasions, that the existing remedies are good enough, simply have not analyzed the problem. The existing remedies were not designed to deal with the problem which we had, as we all know we had, but which was identified by Judge Woods.

Now, Mr. Speaker, I think I have raised some questions. I am completely at a loss to know why members opposite see fit to strike out from our laws provisions which removed possibilities of prejudice interjecting itself in the selection of medical staff for a hospital, which remove the possibility of discrimination based upon race, creed, or color, which remove the possibility of prejudice based upon whether or not a person belongs to a private medical organization or not, which removed the possibility of prejudice based upon association with a co-op organization, I say those provisions which remove these possibilities of discrimination are good provisions, and I say that I am unable to understand why members opposite oppose them.

I want to say where the CCF stands of this issue. We believe, Mr. Speaker, in the principles set out in the act as it now stands. We believe that any doctor who is being denied the essential tool of his profession ought to be told why. We believe that patients too have rights to use their hospitals, to be treated by their doctors, unless there are sound and objective reasons otherwise. We believe that discrimination because you don’t like a man’s ideas has no place in our hospitals. We believe that the right to health should not be rationed on the basis of race, or creed, or philosophy. We believe, Mr. Speaker, that these things are wrong. We believe that they are bad. We believe that they are now prohibited by legislation. We believe that Bill no. 42 will wipe out that legislation and, accordingly, Mr. Speaker, we believe that Bill no. 42 is wrong and that Bill no. 42 is bad.

Hon. J. W. Gardiner (Minister of Public Works): — Mr. Speaker, in rising to say a few words on this act that is before us, to amend the Hospital Standards Act, I must say that in listening to the remarks of the last speaker, it reminded me a little bit of a broken record. I don't know whether he was trying to make a record of sorts, or not, in his address, or trying deliberately to delay the work of this house by his remarks, but he repeated and repeated the things that he said . . .

Mr. R. A. Walker (Hanley): — It is a record that you would never break.

Mr. Gardiner: — There are those that say if you repeat something long enough maybe someone will believe it, and maybe he is trying to prove this point in that manner. However, I want to point out in these few remarks that I want to make this evening, that fact that the changes the opposition are at the present time fighting so hard to prevent being taken out of the act, are changes which have never been proven because they have never been tried. How changes of set up which have never been tried and never been used can disturb an opposition or anyone in a legislative assembly, to stand up and protect it and defend it when they don't know what they are defending, because they don't know whether it would work or whether it wouldn't. So when the previous speaker stood up and spoke for over an hour in this house this afternoon, he was trying to defend an institution which he has no right to say would solve the problems that he has presented to this house.

I want to point out to him that for many years before the session of last year, hospitals and doctors and the ordinary people of this province were able to get along quite nicely on the legislation that was then on the statute books of this province. Only in a time of strife and stress was there any wanting found in any legislation, and it would be my hope that in this province we would never have to go through a situation again such as we went through in the summer of 1962. So I would think that any legislation that has proven itself down through the years will be good enough in most cases, as far as the province of Saskatchewan is concerned, because I think on the whole we have reasonable people, except when they are stirred up to a fever pitch, perhaps over an issue that might arise once in every thirty years. I think outside of that, basically the people of this province are reasonable people. Basically the people of this province, whether it is professional people, whether it is those that want the services of professional people, whether it is those that are engaged in government, whether it is on the provincial or municipal level, I think in most cases these people are prepared to work together.

As long as they have proven over the years that they are prepared to do this, I see no reason why governments should use the heavy hand in order to place on them an institution which they do not want, and an institution which has not been proven to have been successful up to the present time. So I say to the hon. member who has just taken his seat, that it seems to me he is swinging at wind-mills. It seems to me that he is defending something that the people of this province have not asked for. He is defending something that the institutions concerned have not asked for. He is defending something that the professions that are going to be concerned, have not asked for, and he is supporting something that the majority of the people of this province have said that they do not want in this province. They do not want interference with the democratic rights of the institutions that have been built up over the years in the province of Saskatchewan.

Some Hon. Members: — Hear! Hear!

Mr. Gardiner: — The Hospital Standards Act and the health treatment of the people of this province have ever since the formation of Saskatchewan in 1905, been considered of very great importance. Government after government since that time has put into effect new legislation to protect the health of the people of this province, and during those almost 60 years, up until 1962, most of the measures that were put in gave the greatest amount of freedom possible, not only to those who were operating the hospitals, not only to those who were seeking health treatment in this province, not only to those who were giving the health treatment, but to all people generally, and provided them with the greatest possible freedom of action with regard to the maintenance of the health of the people of this province.

I say that the changes that were made last year did interfere with that freedom, and, of course, if circumstances had continued to exist as they did at that time, I would say my hon. friend might have an argument

but there was a change in government a little less than a year ago. The new Minister of Health was willing to sit down with the medical profession in this province, with hospital boards, with those that were most closely concerned and found that he was able to solve the situations that were existing in most cases in the province of Saskatchewan.

I am going to say to my friends sitting across the way that if they will keep their sticky political fingers off the practice of medicine and out of medicine in this province that there will be peace and co-operation among the people that need health care, the people that provide health care, and also the local government organizations that have responsibility in this field as well.

I just want to say, before I ask leave to adjourn the debate, because of the fact that the previous speaker brought into this debate many arguments (unfortunately this afternoon I was unable to hear his complete address) in order to give a complete answer to him, I would like an opportunity to search the records of his remarks at a time when I was unable to be here because I was meeting a delegation, I didn't know that we were in this particular debate, so I am now going to ask leave to adjourn the debate so that I can look over the remarks of the previous speaker.

Debate adjourned.

The Assembly resumed the adjourned debate on the proposed motion of the Hon. Mr. McFarlane (Minister of Municipal Affairs) for second reading of Bill no. 32 — **An Act to amend The Town Act.**

Mr. E. I. Wood (Swift Current): — Mr. Speaker, when the amendments in regard to the Town and City Act were before the legislature a couple of years ago, we had therein some changes having to do with the closing of shops. At that time the amendments concerning the City Act went through the house with absolutely no discussion insofar as the bill was concerned, but there were some members, especially the hon. member from Prince Albert, (Mr. Steuart) at that time who had quite a bit to say when these same regulations came up concerning the Town Act. I felt this rather inappropriate, I thought that possibly the City Act was the senior act and one where these amendments would have more application, but apparently this was thought differently by the members of the opposition at that time, or else they were caught unawares by not having their homework done in regard to the City Act. When these amendments were before us now, I felt it desirable that we have our debate on the City Act and then what would follow in regard to the Town Act was that we wouldn't have to repeat all these arguments again.

I felt the appropriate place to make the argument was in regard to the City Act. Now, there may be undoubtedly some different applications in regard to the Town Act than what there is in the City Act in regard to night opening, but they would not be large and it would appear to me that these arguments do not need to be reheard at this time. Insofar as the other amendments in the Town Act, I have examined them and I do not see anything in which to take exception, they are nothing that cannot be looked at in the Committee of the Whole.

Motion agreed to and bill read the second time.

Hon. D. Heald (Attorney General) moved second reading of Bill no. 83 — **An Act to amend The Investment Contracts Act, 1956.**

He said: Mr. Speaker, this is a bill to amend The Investment Contracts Act. This act was first enacted in 1956, and was amended in 1958. The purpose of this act is to regulate or control companies which sell savings plans on the monthly or annual installment plan. There are only a few such companies operating in Canada, in Saskatchewan there are five companies licensed under this act. Western Savings and Loan, Investors Syndicate, First Investors Corporation, Associated Investors and Commonwealth Savings Plan. Now companies of this kind need to be regulated because like life insurance companies and trust companies, they handle millions of dollars of the public's money. Plans are sold by investment contract companies which call for payments over a very long period of time, 15, 20, 25 and 30 years. In some cases persons use these plans in order to provide a pension fund, of course, there has been quite an impetus to this since the federal income tax regulations were changed.

In Saskatchewan the Superintendent of Insurance in responsible for

the administration of this act, in carrying out his duties he has brought to my attention that not all these companies, but one or two of them, may not be maintaining sufficient capital in surplus, having regard to the amount of their liabilities to the public. Now trust companies, for example, is limited in the amount in which it may own the public. The amount may not exceed 12 ½ times the aggregate of its capital and surplus. Now the bill to amend this act proposes to follow the same principle which we have in this province in respect to trust companies, that is to say 12 ½ times.

We propose to do this by establishing a ratio between the companies net worth and its liabilities, the main one of which is its statutory reserves. Now the term statutory reserves may be somewhat misleading. Hon. members should bear in mind that the amount of a companies' statutory reserves appears on the liability side of the balance sheet, and represents what has been computed to be the company's liability to the public in respect of its outstanding investment contracts.

Now, Mr. Speaker, this bill provides the superintendent may suspend or cancel the licence of any company that does not maintain the ratio required. It also prohibits a company from declaring dividends where its net worth is deficient and we do have a concrete example of a company that was declaring dividends last year when there is some question as to whether or not the net worth is what it should be. The purpose of the proposed bill is, therefore, in brief, Mr. Speaker, to provide some additional minimum security for persons investing money in these companies. We think that if 12½ to 1 is a reasonable ratio for a trust company, then it is also a reasonable rate for these investment contract companies.

By reasons of these amendments the companies will be required to have in assets a minimum of $1.05 or in some cases $1.04, for every dollar of liabilities. Now that is the basic principles of the amendments, Mr. Speaker, and with that short explanation I would move second reading of this bill.

Mr. A. E. Blakeney (Regina West): — Mr. Chairman, just one very brief word. I wondered whether the Attorney General (Mr. Heald) might, on some occasion, have his staff look into a particular practice which it seems to me I suspect some of the investment contact companies engage in, but I wouldn't be able to establish it, as to whether or not they do a lot of in effect, buying securities from themselves. The officers of the company either in their own name, or in other dummy companies' names, buy mortgages, and the like, and then sell them to themselves, sell them to the company which they control at a marked up price, and the marked up price is the value of the asset for the purposes of investment contracts. It always struck me as a procedure which at least could bear investigation.

Mr. Heald: — I must say to the hon. member from Regina West (Mr. Blakeney) this is the type of thing which is making us a little bit nervous about some of these companies, and this is precisely why we want this amendment.

Motion agreed to and bill read a second time.

Hon. D. Heald (Attorney General) moved second reading of Bill no. 84 — **An Act Respecting Private Detectives.**

He said: Mr. Speaker, this is an act entitled the Private Detectives, I suppose we could call it the Private Eye Act, and it is a new act, however, it is an enlargement on the old act, the principle is the same.

Now, I will go into a little detail I think in this act, because it is a new act, in explaining some of the principles. To start with there is a definition and interpretation section under the previous act, The Private Detectives Act, there was no definition as to what a private detective was, or to whom the act applied. The present section is designed to define precisely those persons to whom the act is to extend, and defines private detectives as meaning a person who furnishes information respecting, 1 — Character of persons; 2 — The actions of persons, or the nature of the business or occupation of persons, searches for persons suspected of having violated any federal or provincial law, searches for missing persons, or furnishing guards or watchmen.

Now then having expressly defined the people to whom the act applies, it becomes necessary to define those people, or groups of people to

whom the act is not intended to extend. We have done this in section 3, and we specifically set forth the certain groups of people that are excluded in the operation of the act, such as officers, constables, or employees of any police force, barristers or solicitors, insurance adjustment agencies and so on.

Now, Mr. Speaker, a similar section is to be found in most of the acts of other provinces and in preparing this draft section we had reference to the acts of Alberta, British Columbia and Ontario. Now section 4 provides for the licensing of those engaged in the business of a private detective. This section specifically prohibits anyone from engaging in such occupation without first having obtained a license, and the prohibition extends to the holding out of oneself as engaging in this business without having first obtained a license. Then the act goes on to extend licensing to employees of private detectives, and this didn't occur under the other act, the old act, under this act no persons who was employed by a private detective is permitted to act as a private detective without having first obtained a license. This section is a similar section to the section in the Ontario act.

We feel that when you license detectives you should also license employees of detectives because they do everything that probably the detective does, so if it is reasonable to have certain requirements with regard to private detectives, this should also apply to their employees. So that is the purpose of that inclusion.

Then there is a provision that statements that a person is engaged in the business of a private detective, or so acting, are, in fact, prima facie evidence that he is in fact so engaged.

Section 6 is an attempt to facilitate the establishment of an offence as contemplated by the licensing requirement. This is a new provision and it is similar to Ontario.

Section 7 provides that every applicant must apply to the Attorney General for his license and that is the same as it is now.

Then of course, there is provision for fees under the regulations and the establishment of a bond of a guarantee company and this is similar to the legislation in Alberta and Ontario. Then, of course, the act also provides that the Attorney General may refuse to issue a license and this and this is not any different than it is now.

There is also provision, which is also in the Ontario, Alberta and B. C. acts, that private detectives are required to display any license issued under the act in a conspicuous plane in the office of the private detective and must notify the Attorney General of any change in a private detective's place of business.

There is also a provision that a person licensed as a private detective is not to undertake to collect accounts for any person, either with or without remuneration. This is similar to the statutes of Ontario, Alberta and B. C.

There is another provision that a private detective before he can sue somebody for fees, must establish that he was licensed under the act. Now this is new to this act but it is not new to B. C. and we have it in many of our acts, of course, under the Real Estate Agents' Licensing Act, the Real Estate Agent can't sue for commission unless he is licensed at all relevant times, and this is the same section in this act. Then, of course, there is provision for penalties, this is a fairly straightforward section.

These are the basic principles involved in this bill, Mr. Speaker, not too many new principles, the first one, spelling out the definition of a private detective, secondly, providing that employees of private detectives must also be licensed. With that explanation I would move second reading of this bill.

Motion agreed to and bill read a second time.

Hon. D.G. Steuart, (Minister of Public Health) move second reading of Bill no. 85 — **An Act for the Promotion of Physical, Cultural and Social Activities of the Youth of Saskatchewan.**

He said: Mr. Speaker, in effect, what we are doing here in this bill is, in effect, establishing machinery by which this government can co-ordinate

and develop activities and facilities throughout Saskatchewan to provide a fuller life for our young people.

That such action is needed can hardly be questioned if one reflects on the situation that has prevailed in the province for many years. It is a fact, for example, that the bulk of the graduates of our university leave our province within a year of graduation. It is also a fact that our low birthrate, low population growth, one of the lowest in Canada, is a direct result of our failure to retain our young people in Saskatchewan. In part this has been due to the lack of employment opportunity and the diminishing number of young men who can make a living in agriculture. The second fact must be the lack of those elements that make for a meaningful, significant, full and developing life for Saskatchewan young people.

This bill calls, Mr. Speaker, for the establishment of a provincial youth agency to encourage certain types of development. They are listed, physical, cultural, and social. Now, it is true, that there are in our province, many dedicated, imaginative men and women who have worked hard and long with little or no recompense, in order to advance those elements of life for our youth. We are all familiar with the results of their hard work. Saskatchewan, for example, has produced over the years, athletes whose success rival those of any group of athletes anywhere in Canada. Culturally we have made advances although we certainly can question whether governments in the past, have allocated the kind of resources needed to assist in the development of the artistic talents of a large number of our young people. The social life of our youth is probably the area which needs most study and development. This is true particularly in Saskatchewan in a period in which the institutions in which our traditional social forms have been based, are disappearing. It is natural, Mr. Speaker, that our social structure is changing, and with it will change the traditional forms of entertainment and recreation. For one thing we are becoming less of a rural province as the pace of industrialization increases. For another, new entertainment and information media have emerged making available more ideas about the world in which we live.

Finally, and this is perhaps the most significant factor of all, we are entering an age in which more and more time will be available to our people for leisure. This has come about chiefly through the advance of automation making it possible for people to earn more in less working time.

Mr. Speaker, we spend huge sums of money training our people for employment in the professions and skills. This we must continue to do in an increasing scale but surely our goal will be unbalanced if we fail to assist them in preparing to utilize their leisure time, and pursuits that will advance their physical, cultural and social being.

The government hopes that this agency will help close these gaps. It is true, of course, that our information about the number and nature of services now available to our young people, through voluntary agencies, is sketchy. I have already pointed out that we know in a general way that these agencies are doing valuable work but we do not know the degree to which they require additional assistance and encouragement. Nor do we know, precisely, what gaps exist in an integrated program, to make the development of our young people fuller and more attractive. Therefore, we believe that the first step in this program must be one of study and research to identify the gaps in such a program. This in the coming year, will be the chief workload of the new agency. I should make it quite clear, that the government ahs no intention of interfering in any way with the work being carried out both in the cities and in the rural area, by voluntary organizations. We will, of course, seek out their views on how government can facilitate their advancement and make the results of their effort more far reaching.

In addition, at this time, the agency will not undertake the administration of a grants program. At the present time this is being carried out in the continuing education grants of the Department of Education. We feel that the grants structure cannot be examined until more research has been devoted to identifying the areas that need strengthening. In the meantime, the grants program will be continued by the Department of Education.

Mr. Speaker, we hope this bill will receive the unanimous approval of the legislature. It represents an honest effort to take inventory of our resources in youth development. To make our province more attractive to young people who in the past have left for other parts of Canada. Finally in presents the people of Saskatchewan with an opportunity to mobilize their resources for stronger family life and a better developed community.

Mr. Speaker: —, this government attaches great importance to education. Let us not overlook other aspects of our society that complement education. If we succeed we shall have set an example for the rest of Canada and built a more attractive future for Saskatchewan.

I move second reading of this bill.

Mr. W. A. Robbins (Saskatoon City): — Mr. Speaker, I would just like to make a few comments on this bill.

I am in accord with the idea of doing something for our youth. I think there are real problems in many parts of Saskatchewan with respect to getting participation of youth in the actual activities that are going on in these areas and I would like to draw specifically to the attention of the minister and the officials that will be in charge of this department, one or two problems in my own city of Saskatoon.

First of all I would just like to mention the fact that because of changes in the city of Saskatoon in relation to highways that because of changes in the city of Saskatoon in relation to highways construction and the Idylwyld bridge, the badminton club is in danger of being done away with, if I might use that term. I know that in the winter season, 512 people currently are involved in activity in that club and I know that the offer they received from the city of Saskatoon of $77,000 means, in effect, the death sentence to that club. I am sure that this youth agency should be concerned about this particular situation in this city, because if, in fact, they are paid $77,000 by the city of Saskatoon, and it was my understanding that the senior government has something to say with respect to what is involved in the payment because they are involved in the highway approaches to the Idylwyld bridge. This will mean that the badminton club will go into history — disappear.

Now, I note, the bill says that you are interested in improving the facilities for the holding of physical, cultural, and social activities by the youth of Saskatchewan. This would be a good place to make a start in the terms of a survey and study because if this is not done, as I have said before, there is every possibility that a very valuable youth activity in the city of Saskatoon will go by the board.

I feel that one of the real problems, of course, is to get very active participation, not just by people who may have very good capabilities in terms of sport, but by people in general. I had the good fortune to be in Australia at the time of the Olympics in 1956 and this was one thing that was most noteworthy amongst the Australian population. Very active participation in, what I would call, strictly amateur type sport — tennis, track meets, swimming, and even things like bushwalking as they term it, when people go for very long hikes in the area surrounding their major cities.

Now, I presume that the Legislative Secretary who is the assistant to the Minister of Public Health will have a good deal to do with this youth agency and, therefore, I draw to his attention the situation particularly at the present time in relation to the Saskatoon badminton club, because a very serious situation is developing there and it will need attention at an early date.

The second one I might mention where the Highways Department and, of course, the city of Saskatoon are also involved, is the Riverside Tennis Club, which I happen to be a pretty active member of. Now, I realize the problem is not nearly as grave here and I am simply again drawing this to the attention of the people that will be in charge of this particular department because real problems are posed for this type of activity where you get very active participation of people.

That is all I wish to say at the present time except to say that I am personally acquainted with Dr. Nixon who had been hired, I understand to set up this, develop this agency, and I have a very high regard for him and I think the government is to be commended in this respect. But I urge again upon you to take immediate steps with respect to items such as I have mentioned.

Mr. H. A. Broten (Watrous): — Mr. Chairman, I would be remiss if I didn't bring it to the attention of the house, but if the government people were sitting over here and we were sitting on that side, what would be said would be something like this. There would be a scream and a holler that the act was a socialist, communist, conspiracy. It was founded in desperation, brought out to win the elections and a real storm trooper movement to control people's minds. This is exactly what would be said and everyone on this side knows it too, and most of the people on the other side, especially the ones who have

been sitting in this house before.

However, I too, would like to commend the government for bringing this bill in because I do believe that the people in Saskatchewan and Canada and all over the North American continent, do need to pay more attention to physical culture, culture of all kinds. I think there has to be more stress and probably more encouragement by governments in order to have more organization in this field. I will support the bill.

Mr. A. M. Larson (Pelly): — Mr. Speaker, I would probably be remiss if I didn't, as father of two teenage children, say a word or two with regard to this bill. I want to assure members opposite I am going to be very brief.

I, too, would commend the government for what they are planning to do. I suppose I am like the hon. member from Watrous (Mr. Broten) I have a naturally suspicious mind. As long as accusations of this kind are kept out of it and this program is kept at a high level, I am prepared to do what is possible to support the move.

I think there are two or three things that probably could well be said. Physical fitness and the culture of our youth in Saskatchewan is a very important thing. I think that as a nation and as a province, if we don't do something about our physical fitness and culture and the taking care of our youth, we are going to be very remiss in our duties. I think that the hon. minister has made a very good remark when he said that we are making a start, and I want to commend him for it.

I could spend a little more time but I probably will do this in asking a few questions when we are dealing with it, clause by clause. Therefore, I want to say that I commend the government. I ask whoever is in charge of this measure, to be honest and to do the kind of job that our youth of this province is worthy of.

Motion agreed to, and bill read the second time.

Hon. D. V. Heald, (Attorney General) moved second reading of Bill no. 78 — **An Act to amend The Members of the Legislative Assembly Superannuation Act, 1954.**

He said: Mr. Speaker, there are three or four principles involved in these amendments.

First of all, in section two of the act, the amendment proposes to include in the definition of indemnity the salary of a Legislative Secretary who elects to contribute under this act in respect of his salary as Legislative Secretary.

Then the next change, subsection one of section five has been redrafted, no change in principle really, but redrafted to make it clear that an allowance is paid to the speaker and deputy speaker of the house, subject to a deduction of five per cent only, as is the current practice. In addition, a clause has been added to provide for seven per cent contributions by Legislative Secretaries in respect of their salaries if they elect to contribute.

Now, then, in new section six, subsection one, there is an amendment here to give members, that is members of the legislature, an additional year in which to contribute in respect of previous service under the subsection. That is to say, if a present member of the house, who was a member in the last session 1960 to 1964, if he hasn't thus far elected to contribute he would be out of luck without this amendment. This amendment provides that subject to subsection three in section seventeen, a member may within one year from the coming into force of this subsection, or within three years from the day on which the legislative assembly first is in session after he becomes a member, which ever is the later, then he can elect to contribute. Since the position, I don't know whether anybody is in this position or not, but the position could be that if there is a member in the last session of the legislature who hadn't elected to contribute, without this amendment he wouldn't be able to elect to contribute, but under this amendment he would have a year from the coming into force of this act, so this may pick up, may provide an opportunity for some of the people who were here in the last session.

Mr. Walker: — How about . . .

Mr. Heald: — No, because he is not a

The next section, section seven has been redrafted, subsection one has been redrafted to reflect the fact that members of the Executive Council and the Leader of the Opposition, contributed at a five per cent rate on their allowances for service prior to April 1st, 1961, and at a seven per cent rate after that date. In addition, it is made clear that the five per cent rate applies to allowances of the speaker and deputy speaker. Subsection two of section seven deals with interest payable on contributions in respect of previous service. Provisions have been added covering the speaker, deputy speaker and the Leader of the Opposition, but no change in policy is involved.

There are a number of smaller changes in redrafting but they don't involve a change in policy. The next change, section ten A is omitted to state specifically that the maximum allowance payable to a member who ceases to be a member on or after April 1st, 1961, shall be $4,200.

This incorporates in the act, the provision which was placed in the Public Service Superannuation Act in 1962 as an expedient at that time. So there is no change in the law here.

Then the next change, Mr. Speaker, is section seventeen, subsection one, which reads, the proposed new subsection one of section provides this act does not apply to a person who becomes entitled to a retiring allowance under the Members of Parliament Retiring Allowances Act of Canada and thereafter becomes a member unless he elects, within one year from the day on which this subsection comes into force, or within three years from the day on which the legislative assembly first is in session after he becomes a member, which ever is the later, to contribute under this act. This amendment puts any member of this house who previously had been a member of parliament, in the same position. It gives him a year from the coming into force of this act. The same as section six did with respect to members of the legislature.

At present, subsection two of section seventeen A provides that a monthly deduction may be made from an allowance under this act to be paid to Group Medical Services or a similar organization. Now, this amendment really reflects the current practice whereby deductions are payable to SHSP or MCIC, rather than the approved health agencies.

Mr. Speaker, those are the main changes being proposed in this bill and with that explanation, I would move second reading.

Mr. Fred A. Dewhurst (Wadena): — Mr. Speaker, there are one or two points I would like to raise for the consideration of the minister.

I know in the act, as it stands at the present time, and there is no provisions made for it in these amendments, it happened in this last election — there were members on both sides of the house who didn't quite qualify for a member's pension. They had served the nine terms instead of ten. If they had have served ten terms they could have qualified. Some of them may, or may not, ever run again to seek a seat in this legislature, some probably will, others won't. But there were members on both sides who were in that position. But the moment that the election returns were known and it was known that they were defeated in the election, then the money that they had put in the members funds was immediately repaid to them. They had no option of leaving it in there. It was repaid to them. Now, if in three or four years time from now, or ten years from now, if any of these people from either side of the house, should decide to run for a member again and be elected, then they could take into consideration their back service but they would have to pay back what had been paid out to them. I would suggest maybe the minister could take a look at making a proviso, an amendment whereby in those cases, at the option of the individual, that money could be left in. The money would be there in the fund, could be earning money for the fund, — I am not saying that the individual should get the interest on the money from the time his option is to leave it there, that would be at the discretion of the minister proposing it, but if it was left in there, the money is there if he wanted it, if he asked for it, and he wouldn't have to pay it back.

What does happen in a case like last year, there are some of the members I know, they had to accept back all the money that they had paid in on their superannuation plan, they were only one year, as I say, Mr. Speaker, from qualifying. It put them into a different bracket in the income tax. They had to pay income tax on that money because it was all paid out at once. But if they have to pay it back in again it won't be balanced off again at the same rate. I think that is the only point I wish to make at this time.

Other points can be discussed if the bill goes through but I would like the minister to think about this point to see if an amendment couldn't be thought of and brought to us when the bill is in committee.

Mr. H.A. Broten (Watrous): — Does this bill provide for any life insurance for any of the members?

Mr. Heald: — No.

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.

Mr. Heald: — Mr. Speaker, I would like to make an observation or two as a result of the remarks of the hon. member from Wadena (Mr. Dewhurst). He raised a very good point and this had been brought to my attention. We are looking at this. There are a number of members from both sides of the house, as he pointed out, who found themselves in this position of having put in nine sessions, having credit for nine sessions, and not being able to get the tenth one in and then having to take back all the money and having it shown as taxable income, last year, 1964.

We are looking at that but the difficulty is there are a number of different types of situations. There is that situation and then there is the situation involving people who didn't elect, who are not members now, who now wish they had have elected. We are looking at this whole thing and I think I can promise you that in another year we will have further amendments to this act, to submit to this legislature, to try to pick up some of these problems.

I know the case you mentioned certainly applies in the case of my predecessor, the member from Lumsden, was in that position with nine sessions. I don't think it is fair and we are certainly going to look at it, I can assure you.

Motion agreed to and bill read the second time.

Hon. D. V. Heald, (Attorney General) moved second reading of **Bill no. 82 — An Act to amend The Vehicles Act, 1957.**

He said: Mr. Speaker, these are amendments to the Vehicles Act, 1957. Section two of this bill adds a new definition of conversion axle and excepts reserves out from the definition of trailer, vehicles commonly know as farm trailers.

We have been advised by the Highway Traffic Board that the conversion axle which is to be allowed and taxed in the current license year has never been allowed in the past. The notes which we have from the Highway Traffic Board with respect to these amendments say that the Highway Traffic Board has received a request from the Saskatchewan Trucking Association to consider a provision for the licensing as a separate unit, the tag axle or conversion axle, to be used to tandemize either a straight truck or two-axle power unit.

The province of Manitoba, we are advised, has been licensing this type of axle for several years. A separate certificate and plate is issued for it and the plate must be riveted to the conversion axle. The fee charged is for that weight representing the difference between the licensed weight of the power unit and the overall gross required. The Saskatchewan Trucking Association has pointed out that the purpose for the use of the tag axle or the conversion axle, is flexibility. Apparently the operators concerned do not often have demand for the maximum gross weight equipment, not is it always practical to license one particular power unit to its maximum gross weight. Having the tag axle or conversion axle licensed for the extra capacity would enable the operator to meet this sort of intermittent demand for higher capacity in combination with any power unit. In order to provide for the licensing of this type of unit, the board feels that it will be necessary to place a provision in the act defining conversion axle and that is what this section does.

Now, Mr. Speaker, farm trailers will not be required to be licensed when used for the purposes for which a vehicle license as a farm truck or special farm truck can be used. In this regard, the Highway Traffic

Board advises that the Provincial Treasurer, Treasury Department, suggested that a trailer used by a farmer to haul his hay and grain and so on, be excluded from the requirements of registration and under the proposed amendment a farmer will not be required to register trailer (a) when drawn by his farm tractor or motor vehicle registered as a farm truck or special farm truck (b) used in connection with his own farm operations. It is intended, however, that a farmer must register a boat trailer, a utility trailer, drawn by a motor vehicle registered as a passenger car, a trailer used to transport goods for compensation or a trailer used for any purpose other than farming.

The bill amends section thirty-seven by inserting after subsection one, a new subsection. Without this proposed amendment the addition of a conversion axle to a vehicle would constitute reconstruction of that vehicle thus necessitating a reregistration of that reconstructed vehicle and the issuance of a new certificate and numbered plates. It is appreciated, of course, that a conversion axle may be moved from vehicle to vehicle.

This amendment has been prompted by the fact that cases have arisen in which penalties have been imposed in respect of excess weight under the Highways Act, 1061. Talking about section four of the bill, and the vehicle not having been seized there is no effective way of enforcing payment of the penalty apart possibly from a civil action for a debt owing to the crown. It will be noted that the Highways Act 1961 has been added as subclause two. It should also be noted that the introductory words to clause A of section four, contains the words "has heretofor been" or "is hereafter convicted", The section has therefore retroactive effects. Furthermore, subclause four has been updated to make reference to the Education and Health Tax Act.

Now, in section five of the bill, the purpose of the amendments to section 209A as enacted by chapter sixty-one of the Statutes of 1961, is to permit the use of a traffic ticket for violation of the provisions of a bylaw made under the Wascana Centre Act. We should probably all be interested in this. Controlling traffic or regulating the speed or parking of traffic in Wascana Centre which, of course, is where we are now. It is noted also that the reference to the Highway and Transportation Act has been replaced by references to the Highways Act, 1961, which latter act replaced the Highways and Transportation Act in 1961.

It should also be noted that the words "Police Magistrate" have been replaced by the expression "Judge of the Magistrate's Court" or "Provincial Magistrate" to keep in line with recent statutes in that regard.

Mr. Speaker, with that brief explanation I would move second reading of the amendments to The Vehicles Act.

Mr. A. Thibault (Kinistino): — Mr. Speaker, where there is a grain auger being towed behind a car, a farmer's car . . .

Mr. Heald: — I wonder if the hon. member would defer that to consideration in committee.

Mr. Thibault: — Okay.

Mr. A. E. Blakeney (Regina West): — Mr. Chairman, I just want to say a word about this, I don't think that I have any objections to the provisions of the bill, I think that the provisions with respect to conversion axles are useful additions to the act, the question with respect to farm trailers is, I think, merely for the point of clarification. As I view the law now, farm trailers do not require to be licensed, because they are farm machinery, and farm machinery is specifically excluded under section 27, subsection 2, clause B, subclause 1, sort of thing, and in reference to the comment of my hon. friend, the member for Kinistino (Mr. A. Thibault) I think that an auger is farm machinery for these purposes too, and is not a motor vehicle and accordingly doesn't require to be registered.

Generally I think that the provisions are tidying up provisions, and I see no objection to the act and accordingly will be supporting it.

Motion agreed to and bill read the second time.

The Assembly resumed the adjourned debate on the proposed motion of Hon. A. H. McDonald for second reading of Bill no. 77 — **An Act to amend The Provincial Lands Act.**

He said: Mr. Speaker, the member for Cut Knife (Mr. Nollet) was asking some questions, he is just coming in, I wonder if he would ask them now?

Mr. I. C. Nollet (Cut Knife): — Mr. Speaker, I had some questions on second reading, and I think I could probably better seek my information when the bill is in committee, and determine at that time whether or not I think the amendments are good or not. So, I would defer them.

Motion agreed to and bill read a second time.

ADJOURNED DEBATES

MOTION RE CANADIAN CONSTITUTION, RESOLUTION NO. 1

The Assembly resumed the adjourned debate on the proposed motion of the Hon. Mr. Heald, Attorney General.

Mr. Martin Pederson (Arm River): — Mr. Speaker, when I rose and asked to adjourn the debate on Tuesday last, I made some preliminary comments in connection with this resolution that is on the order paper. At that time I neglected to comment on a couple of points that I had jotted down in connection with the Attorney General's remarks when he introduced the resolution, and I think the first thing that I would like to say, Mr. Speaker, is that contrary to what seems to be the opinion of both the White Paper and the Attorney General, this present formula is different in many substances from the proposals, the so-called Fulton proposals of 1961, and I know that the hon. gentleman, Mr. Fulton, that I refer to, has on several occasions, at least, appeared to say — that in substance they are the same, but I am afraid that this is one occasion that I must differ with him.

The other point that I would like to make before dealing specifically with some of the matters concerning this resolution is that I feel very sincerely that we do need a new Constitution in this nation. I think, naturally, that we must first of all have the so-called repatriation before we can begin to look towards bringing in a new Constitution. This is something that I think all of us should be aware of, and in being critical or in supporting the present proposal that is before legislatures in this country, and in fact, the House of Commons, that we should bear in mind that the day has come, in fact, when we do need a new Constitution for Canada.

Now, I want to deal with another matter before I continue with my remarks based on the White Paper and on the resolution at hand, and that is to suggest that I feel the Premier has, in fact, shown a good deal of neglect in the manner in which he conducted his actions in reference to this very important question.

Now I feel that he has taken an action on behalf of the people of this province and has not received any preconceived or prepared advice either from the elected representatives of the people, or from the province itself. I know there have been precedents in matters affecting Constitution in years gone by, where consent has been given by the government of the day without immediate reference to the legislature. I know that. However, these were matters that, by and large, affected relatively minor changes in the Constitution, or else they were matters that were of internal importance to a province.

In studying the constitutional history of our nation very carefully, I find that as far back as 1871 and again in 1875, a precedent was established that the government of the day, and I am speaking now of a federal government, would not seek constitutional amendments without first of all seeking the consent of the House of Commons and the Senate. Now, this to a greater, or a lesser degree, has also been applicable over the years to the provinces. Now, Mr. Speaker, as you know during this session a good deal has been made of the fact that a session was not held of this legislature last fall, as was promised. There have been many valid reasons given why this session should have been held, but in my opinion, all the reasons that have been given, fade into insignificance when compared to the need to have called, if nothing else, a short session over this question of providing acceptance or rejection by the government of this province, for the so-called Fulton-Favreau formula for amending our constitution.

This, I believe, was sufficient reason for holding a special session, so that the Premier could have sought advice of the members of this assembly before entering into negotiations and ultimately announcing that this was acceptable to us.

This question of the amending of our constitution is a matter of vital concern to every citizen of this province, and the voice of all people, through their elected representatives in this house, should have been heard. Instead we had, in effect, the Premier agreeing to this formula, and then coming back to Saskatchewan and asking us to sanction his actions, and I believe that this was, in this particular circumstance, wrong. This, in my opinion, is not in keeping with the inherent principles of democracy as I understand it, however, it seems to be in keeping with the attitude of governments, both in Saskatchewan today, and in Ottawa, in that they tend to place the people of Canada in a position where they no longer have a choice. This has been true of many great issues, of the last year or so; I refer to things such as the Flag issue, and now this constitutional issue. Because of this reverse approach that has been taken on our behalf, the Premier and his government, debate on this particular resolution takes on tones of being a farce. I believe that we have, in effect, been committed and anything that we may be able to say here will have little significance insofar as the action that will be taken on the national level.

It is obvious to me that the government has committed us to this course of action, and I suggest, Mr. Speaker, that there is little here that we can say that will change more perhaps than a comma, or a period, or small phrase. This, then, is one of the first weaknesses that is self-evident in this resolution that is placed here on the Order Paper before this assembly by the Attorney General (Mr. Heald).

A nation that prides itself on its democratic procedure is, in fact, being denied that democratic procedure and I trust that this is not a precedent, that hon. members opposite, the government and the Premier, will be following in a future course of action on matters as important as this constitutional amendment. Our nation, Mr. Speaker, has been struggling for over 100 years to resolve the difficulties of this very vast and complex problem of amendments for the Constitution, and yet in a very few short meetings, a few short days, the Premier has, in effect, said here is a solution, and I accept it on behalf of the people of Saskatchewan.

There may be some people who can, who have that type of faith in the Premier's judgment, but I must admit, Mr. Speaker, that I am not one of them, if I am to base my assessment of him in that regard on his performance in other matters over the last few months.

An Hon. Member: — . . . where are . . .

Mr. Pederson: — Now, I would suggest to hon. members opposite to wait and see, and we will see which side of the fence we are all going to be on. I am very pleased to see and hear these threats and warnings and so on, because I love a debate as good as the next fellow.

Now, I think, Mr. Speaker, that I should now place on the record, the attitude of the party that I represent towards this formula that has been given such wide prominence, and which is set out in some detail with explanatory notes in the White Paper. In taking a look at this, well, I would suggest that it might be better to have some of his than some of the ideas that the hon. gentleman opposite has.

Hon. J. W. Gardiner (Minister of Public Works): — Good idea . . .

Mr. Pederson: — Well, I think I will leave Mr. Fulton to his own problems in B. C., I don't think I need to worry about him, I would suggest that the hon. member may solve his own problems one of these days.

I think in looking at this question, Mr. Speaker, that there are several propositions that are reasonably self-evident, and the first one is that in its approach to Confederation, the Conservative party was, in 1864, and in following years, the party of a strong national government, and MacDonald's concept was that the subjects, the great subjects of legislation, that is matters of great importance, should belong strictly to the national government. A second point is that in the changed social status of the last 97 years, certain subjects of legislation which were unimportant in 1867, when the nation was founded have become great subjects, particularly social welfare, and by that I mean not just necessarily social welfare but I mean all those things that the state does to insure that the individual has a reasonably decent life, such as minimum wages acts, and hours of work acts, and workmens' compensation and things like that.

These are items that in days gone by were not so important, and

perhaps were not taken into consideration in the way they should have been in the original drafts. The third point is that to the extent that the province has constitutional responsibility it must also have the means to discharge them, I think this is agreeable to all members.

A fourth point is that the Privy Council decision, and I am referring to a decision on section 132 of the B.N.A. Act, a decision that was handed down some time ago, this decision held that a national government ought not to be hamstrung internationally by being unable to implement treaties without provincial concurrence. In this category, I believe, the whole question of the Columbia Treaty, the Columbia River Treaty, might have been obviated except for the interpretation that was placed on this particular section by the Privy Council.

The fifth point that I want to make is that any formula for constitutional amendment which gives one province a right of vote on either changing the legislative powers of a province, which I read in the draft act is the effect of clause 2A, I believe this is what it means, or changing the power of the national government. I think anything that does that will make any change of importance impossible in the future, and that is my interpretation of that particular section what the sum effect will be in the ultimate.

I believe another point that is generally acceptable is that it would not be right to maintain the guarantees given by the B.N.A. Act, it wouldn't be right to not maintain these provisions made by the B.N.A. Act to provide for the use of French or for the maintenance of denominational schools that is provided under the act. I think this is something that those of us who live in western Canada and away from Quebec, also hold with.

Another point that I want to make, and I think it is of prime importance, is that this country needs a Bill of Rights, binding on the provinces as well as on the federal government. We do have a Bill of Rights, and being a Conservative I must admit that I have some degree of pride in mentioning that fact, but I believe that Bill of Rights should be binding on the provinces, not merely on the federal seat. I concede that it is impossible to get all of the provinces to agree on a proposal, or a formula, other than the Fulton-Favreau formula at the moment. This doesn't mean that I believe we should be rushing into it regardless of the fact that maybe at the moment we cannot obtain agreement on any other formula.

I agree, too, that Canada should be able to amend her own Constitution by 1967, this I think, is of great importance. Now, I feel that while there may be a type of convention now, that the provinces should agree to the amendments to the first North American Act relating to their legislative powers, that this convention if it can truly be said to exist, ought to give way to the necessities of the times. By that I mean simply, Mr. Speaker, that simply because it is an accepted fact today, it doesn't necessarily mean that it will be tomorrow.

From these ten propositions it seems to me that there can be only one conclusion as to the course of action that should be followed. I believe, Mr. Speaker, that we should reject the Fulton-Favreau formula, and we should advocate a change in that formula of say, seven of the provinces, with perhaps two-thirds of the Senate and the House of Commons being necessary to concur in any constitutional amendments, except, of course, amendments relating to the present guarantees of language, of denominational schools, the amendment formula itself, the Bill of Rights, and, of course, the structure of the government of Canada. I believe this is an alternative proposal, and furthermore, I believe that we should support the proposition that the Parliament of Canada is entitled to implement treaties of Canada as a single responsibility. My interpretation is that this is not possible. We should include in the B.N.A. Act, a Bill of Rights, as I mentioned a few moments ago, binding on the provinces.

I do not see how this nation can avoid choosing, and choosing very soon, between two concepts of Confederation that seem to be abroad in this nation today. The MacDonald concept as I refer to it of a strong national government, which is a concept that has been accepted by the party that I represent, down through the years, or the provincial rights concept, now advocated by the national Liberal party, and which I interpret is a concept inherent in this amending formula that is place before the house at this time.

The present formula referred to in the resolution before this house, Mr. Speaker, sets out very clearly the major concessions that have

been made to various provinces in order to obtain agreement for the amending formula. All the way through it I find this intent of giving and giving in order to get agreement.

It seems to me that the federal government have abrogated so many of their powers and areas of jurisdiction to the prerogative of the provinces that there is real danger of the fragmentation of our national structure. Balkanization, as was mentioned by the hon. member for Hanley (Mr. Walker) the other day, of the provinces, either separately or jointly, I mean simply by that that balkanization can take place on a geographic area as well as on a political basis or area. I am referring specifically, Mr. Speaker, to the powers of delegation that are dealt with in the White Paper on pages 47, 48, and 49, because I find on page 49 of the White Paper, that it says that there has been some concern felt that the delegation provision could make it possible for any province to change its own position within confederation, to acquire a status that is completely different from other provinces, and I notice the White Paper goes on to say that it presents no such possibility.

This, in my opinion, is a mild statement of the situation, it is a question of one or more provinces acquiring powers belonging to the federal government, while other provinces do not do so. This, I believe, is in the provisions of this formula. If this happens there will be a divided administration of powers, transportation, for example, could be under provincial administration in some provinces, and under federal laws in others. The White Paper, I noticed too, Mr. Speaker, makes much of the fact that four provinces must combine to assume federal powers, and I notice the hon. Attorney General (Mr. Heald) the other evening introducing this resolution made a good deal of play on the fact that it took four provinces in order to assume any of these federal powers.

But let me point out, Mr. Speaker, that they need not be the same four provinces in each case, but if one of the four provinces is the same in all of this multiplicity of cases and there are a number of encouragements in the federal field, one province might well end up being in a very different position from the rest of Canada. Far greater autonomy and far greater power, if, in fact, as was suggested by the Attorney General (Mr. Heald) and has been suggested in the White Paper that this is not the intention of the amendments, what other purpose can they serve? If it is not intended to provide an open door for one or more provinces to assume federal powers, what is intended? It either represents an offer to the provinces, in my opinion, to come and get it, or it is just meaningless window dressing. At the very least it means removing the dividing line between what is provincial and what is federal, and throwing the powers open for grabs.

What does Mr. Lesage have to say about this? He was reported in Le Devoir of Tuesday, March 2nd, and this is what he had to say:

> The right of veto on constitutional amendments which each province will possess, is not only a defensive armor, it is also an offensive armor, which Quebec can make use of as a persuader.

Those were the words of Mr. Lesage. Then he went on to say this:

> The two hypothesis are possible, either Quebec and the rest of Canada want the same kind of changes, in which case the vote is harmless, or on the other hand, Quebec wants changes moving towards decentralization, and the others want to move toward more centralization, in which case the others can block Quebec.
>
> In such a case, the only solution is to recognize that Quebec has a different course to follow than that of the other provinces.

Now that is the statement of the Premier of the province of Quebec. That is exactly the point that I am trying to make. What the White Paper says cannot happen. It opens a prospect of the powers of government becoming a political football at the mercy of political jockeying by groups of other provinces, with the federal government shorn of any power to intervene through the removal of section 91, subsection 1.

Now, in the past it has always been assumed, and it certainly was by our party, and I believe that this is one of the things that led to the beginnings of the so-called Fulton formula in 1961, the fact that we

did not at that time recognize that this was possible, because we had always assumed that the federal government would be one which would stand up and fight for the powers of federal government. We always assumed that any political party that came into power would fight for the powers of the federal government. Mr. Speaker, in the last two years we have had a government in Ottawa which has taken the opposite course, for the first time in the history of our nation they have been prepared, and are prepared, to retreat in the face of political pressure from one province on virtually every ground.

They have retreated on the economic, on the cultural, and on the constitutional fronts. Every time they have been faced with a tough proposition they have retreated, and lose some of the powers of the federal government. An example of this, Mr. Speaker, is under ARDA, the present minister in the House of Commons says that the initiative must come from the province — this is not the concept of ARDA. We have witnessed over again in the past two years, and it is obviously going to continue, a political party in Ottawa, who in order to perpetuate themselves in office, will be prepared to abandon that — the powers that have been inherent in the federal government for a long time. Many of the rights that should have been retained by the central powers in order to maintain a strong cohesive central government have been abandoned, and will continue to be abandoned in order to maintain certain political parties in power.

This is one of the great dangers. The Premier of Saskatchewan, and I have been pleased every time he has done it, has placed himself on record as favoring a strong central government. He stated this many, many times, but if this is really what he believes, how then could he have accepted this formula on behalf of the people of Saskatchewan. If he does, in fact, believe in a strong central government, I recall him making that statement shortly after he took over as Premier of this province, because there is evidence in one area after another that the actions of the present federal government and the provisions of this amending formula can follow no other course than a continuing landslide in the decline of the strength of the central government in Ottawa. This, then, is what our Premier has committed us to, in spite of the public protestations that he has been making that he supports a strong central government. There can be no doubt about it that a very real problem in respect of governmental powers becoming a political football is coming about very quickly.

Mr. Lesage, again referring to him, is on record at the federal-provincial conference in November of 1963, as demanding a voice in federal policies which include immigration, transportation, monetary policies and in native population. These are the areas he has declared himself as wanting a voice in setting down the controls which should fall under his jurisdiction, which he has asked fall under his jurisdiction. Under the changes which are being proposed in this constitution, there is nothing to prevent him moving into these fields and others, provided he can get the concurrence of just three other provinces and the consent of parliament.

Likewise, there is nothing to prevent any other provincial premier, maybe even our Premier from Saskatchewan, from moving into Mr. Lesage's, I am sorry to keep citing him, he is cited merely as an example because he makes the most frequent demands in this area, and therefore, it is quite simple to use him as the example at the present time. I am not being critical of him. He is a very strong, provincial rights man, and supporter of this formula. Simply to say "It will not happen". Alright it won't happen, why open the door? Either these are meaningful changes intended to achieve certain results, or they re fatuous.

The only result that can be brought about, supposing that the changes mean what they say is for groups of provinces to move into federal fields. If one big province is determined to do so, all along the line, it will take the steps required to do so, and it will secure the support it needs. If the powers are assumed by one or several provinces, then that effect will be to change the status of that province, or other provinces, of course, while at the same time, weakening the power of the central government.

Nothing on the White Paper leads to any other conclusion. You take the banking situation: The law, to prevent provincial governments from investing in the stock of chartered banks; under the constitution that is being proposed, they will have a right to do this. With the new arrangements, people like Mr. Bennett in B. C. would not have too much trouble perhaps, to persuade Mr. Manning, next door in Alberta, or my hon. friend from Quebec, or my right hon. friend from Ontario, they could move into this field, take away from the federal jurisdiction banking rights in those provinces, they can do this under this formula.

I am not saying whether it would be good or bad if they moved into the banking field, but I am saying that you would have four provinces legislating the banking field and six others under federal legislation. This could come about with this formula. If you want to carry this all along the line, you have a hopeless hodge-podge of differing legislation in different provinces, and then if you add opting out to this, the result is an ungovernable mess, leading to a complete breakdown, in my opinion, in constitutional authority. You cannot separate opting out from the constitutional changes and the other elements in this pattern. It is all a package leading to the breakdown of the constitutional structure. This is what I read into this White Paper.

Those people who accept opting out and obviously some do, for the same reasons will be compelled to accept the constitutional changes and in that effect, of the provision, will be to produce in my opinion, a watered-down Constitution, to push Quebec into a corner, to free French Canadian rights for all time to come, and, in my opinion, to remove any possibility of action on the federal level to encourage through provincial agreement, of course, the provision of French language instruction in Canada from coast to coast wherever it is required.

Than I want to turn, Mr. Speaker, for a moment to the so-called two nation theory. Surely none of us in this house support the proposition that Canada can survive as two nations. I don't believe anybody could really believe such, because if it were applied it would mean the end of Canada. You are going to have two nations culturally, but not politically within a framework of a single state. Not one of us can take the stand that opting out and the constitutional changes are matters of concern only, or mainly to Quebec. I do not believe that is right. We cannot accept the proposition of what is good for any particular province, is good for Canada. Surely, Mr. Speaker, the test is whether a particular policy is good for Canada as a whole, not whether it is only good for one province to give them what they want. They are matters of Canadian concern, and we in this legislature, of course, must continue in this area, to uphold the rights of provinces as far as we are able. Nevertheless, these matters must be viewed in the light of national interest so that we can rise above the parochial interest of our province. We are dealing with matters of national importance, not merely of provincial importance, and I think it would be well if premiers in other provinces would bear that in mind a little more.

Now it might be said that this stand in some way is injurious to Quebec, and to those who say that this stand on the Constitution in some way discriminates towards Quebec. Let me read this article by Mr. Claude Ryne, he is a distinguished correspondent and a very outspoken voice for Quebec's rights. Writing in the Le Devoir of March 4th of this year, he says, amongst other things:

> Let us not be mistaken in the Fulton-Favreau formula. Repatriation is only the sugar coating on the pill. What really matters are the substantial amendments to the present Constitution which the formula includes. The amendment procedure is an important change. Delegation of powers is another. Neither of these two formulas appear acceptable as far as Quebec is concerned. The proposals are deceiving for Quebec. The formula freezes the constitution on crucial points. Quebec gains nothing under the new formula that we did not already possess and we expose ourselves to be frozen for a long time to come, within the present frontiers.

Referring to article five, where in support, two thirds of the province is representing fifty per cent of the population, and referring to that article, Mr. Ryne says:

> You only have to know how to count to realize that the rest of the country can in the future make substantial changes in the Constitution without needing the support or agreement of Quebec.

He also criticizes the fact that disputes will have to go to the Supreme Court, a body that is federally appointed. Those who advance the argument that we must not oppose for fear of antagonizing Quebec are speaking only for one body of opinion in Quebec and that, in my opinion, Mr. Speaker, is the Liberal party.

What will be the picture in Canada if present Liberal policies of fragmentation are carried out as proposed in this amending formula? First, we will have one pension plan for nine provinces, a second for the tenth with a prospect of the two plans drifting apart under varying economic pressure on the federal and provincial levels, both as to rates and premiums, and thus, in my opinion, interfering with portability.

It would seem now that the federal government might have to bow to the wishes of Quebec, in order to make the scheme work, and all other nine provinces will have to bow with them. Second, this policy of fragmentation that I am referring to ahs already led, as evidence of what I am saying, to two flags. This is part of a fragmentation program. We have the Pearson flag, which is now the flag of Canada, and we have the Union Jack. I might say, Mr. Speaker, that we have a third flag, that goes mostly unmentioned, but continuing to fly in many hearts — and I refer to the Red Ensign. I believe that the Canadian Red Ensign will become known in the future as the unknown flag. But this is a result of this type of a program.

The third point, under opting out, we will have some provinces accepting federal joint programs, others declining them, and setting up programs of their own, supported by the taxpayers of Canada. Now if all the provinces opted out, the plans might just as well be cancelled. If some opted out and others stayed in, there would be confusion and varying levels of standards in many important areas. If only Quebec opts out, and the others go along, we have an arrangement in nine provinces and another in the tenth, along with a different pension plan — all tending towards setting up two nations under the proposed new Constitution.

As I mentioned, any four provinces combined can enter the federal field. Mr. Lesage, as I mentioned, said he wants tariff, transportation, immigration, a monitor policy in control of Eskimos and Indians. One the power grab starts, it is not impossible for him to get support of three provinces in each of these specific demands. Maybe it may not be the same three in each case. I would advise the hon. member to remember how many times ha had to redraft his Sunday sports bill before he cast any comments.

Some Hon. Members: — Hear! Hear!

Mr. Pederson: — If he had read the White Paper, he might have found out that he did not know anything about it.

Mr. I. MacDougall (Souris-Estevan): — You are all mixed up.

Mr. Pederson: — Well, I am not surprised that this sounds mixed up to the hon. member from Souris-Estevan (Mr. MacDougall), he would not understand the first three lines. It may not be the same three provinces in each case, that I was referring to, Mr. Speaker. In the case of monitor policies, I mentioned, he might get B. C., Alberta, and Ontario. In tariffs he could get New Brunswick, Ontario, Newfoundland, and maybe Saskatchewan, who knows? In any case it would result in an uneven and a patchwork distribution across Canada, with a progressive weakening of the federal government. The weaker Ottawa gets the more tempted the provinces would be. When one tore off a bit, the temptation of others to follow suit would be irresistible. If it is said, and the White Paper says it is, that it is not the intention to surrender these powers, then obviously the so-called amendments are intended to deceive. They either mean what they say, or they are meaningless — simply part, Mr. Speaker, as I said, of a continuing program of Liberal propaganda, and their assault on confederation.

If the suggestion is that the other provinces would stand fast by a strong central government and only Quebec would make use of these new powers, then we would indeed have succeeded, in my opinion, of setting up two nations. We have a case at the present time before the law courts, on the question of some of the coastal provinces wishing to claim for themselves, all benefits derived from resources inherent on the continental shelf. It would seem to me, at any rate, that under this formula, the claims made by these provinces before the courts have some validity, but surely these are resources that belong to the entire nation, not merely to one or two provinces. This is the type of fragmentation, Mr. Speaker, that has been so evident on the national level, since the onset of a Liberal party at Ottawa, and now it is obviously receiving the concurrence, although blind, because they do not understand it, concurrence of the provincial Liberal party. There is no way that we as members can disassociate opting out, to pension plans and the constitutional changes. There is no way to set them aside. They are all part, in my opinion, of the same design, leading to the setting up of two states. You may, in fact, favor one, or perhaps

several of the various steps that are outlined in the constitutional changes that are being proposed. If you accept one, then you must accept the others on the same grounds. They must all be accepted or rejected. you accept the proposition that you can agree, for instance, opting out, then you must accept the entire proposal. There is no way to split. I know there are some who say that that is not so. They say that to link opting out is an example and the things that I mentioned just previous to this, indicates that you were against Quebec. I think I have dealt with that quite extensively. Premier Lesage links both of these ideas together. He says they are in one program. I don't think you would suggest that he was against Quebec. Here is what he has to say and I quote from the Montreal Gazette of March 4th:

> Discussing the constitutional amendments, they did not, contrary to the White Paper, remove the possibility of a special status for Quebec.

Then he want on:

> Quebec has already achieved a kind of special status in opting out of many joint federal-provincial plans, and that other powers can be obtained by the use of the constitutional veto.

He obviously regards a bolt as part of a single progression. Mr. Favreau could be counted as perhaps having a certain status as a spokesman for the Liberal party, I think, and perhaps in some areas of Quebec. Just recently in Montreal he said that the formula of repatriation is only the preliminary step leading to the official revision of the Constitution.

Surely, Mr. Speaker, these are warnings that the Premier should have heeded before he committed this province, at least tentatively, to the acceptance of this formula. Surely the insertion of a resolution such as we have here before us should have been accorded a greater degree of importance, than has been given to it by introducing it at this session, long after the Premier has, in public, committed us to it. It is not unreasonable to believe that it could well have been the subject of a special session as I mentioned, and most certainly that session should have been held prior to the Premier's meeting with the other provincial leaders and the federal government.

Mr. Steuart: — You should have been a lawyer.

Mr. Pederson: — Well, Mr. Speaker, I notice the hon. Minister of Health (Mr. Steuart) hasn't too much to say on this one either. No other single matter in my opinion, Mr. Speaker, that has come before this legislature will hold as great a degree of importance in the future lives of all of us as this particular resolution. In two years our entire nation will be celebrating the founding of our nation, and the people in every walk of life will consider the actions of the government of 100 years ago, actions that have had very far-reaching and important overtones, and we will call on this province as we are now, on people in every walk of life, to pause and mark that occasion as a special time.

This year we are faced with a major change in the manner in which we govern ourselves. No one who holds the sovereign rights of our nation as a matter of importance in their hearts can deny the necessity of attaining national sovereignty by the year 1967 through repatriation of the Constitution. But if we are to attain this, through the fragmentation and division of our nation, then it is far better that the birthday of our nation should pass, both unmarked and unhonored. For us to accept the very substantial dangers that are inherent in the proposals before us would be to accept our responsibility far too lightly. Many of us, Mr. Speaker, fought for the preservation of this nation and peace in various world conflicts. I for one, cannot accept the proposition that we should do otherwise in dealing with this matter before us. I believe this is of equal importance. If we were prepared to preserve the independence and freedom and unity of our nation by fighting for it in war, then surely, we must be committed to go as far in peaceful times, to overcome the effort of those looking for political advantage by sowing the seeds of national disunity and the ultimate destruction of our nation. This, I believe, in essence, is the proposal set forth in this resolution. All of the time-worn slogans that everybody laughed at such as "United We Stand — Divided We Fall" take on a tremendous significance when we, as Canadians, are faced with a very serious prospect of a divided Canada, and through that division, the ultimate destruction of Canada. We cannot stand individually, as a nation. We can only survive in unity — and I believe, Mr. Speaker, as I mentioned several times, that this formula will ultimately lead to a divided nation, with a two nation concept.

I, Mr. Speaker, cannot be a party to the sounding of what I consider is the death knell of Canada as a strong united nation. The provisions of the proposed amendments in my opinion, sound that death knell. Because I believe in this nation, because I believe in its future, because I believe it should be allowed to remain united, I cannot support some of the clauses in the amending formula that has been tabled in this house, because I believe they do lead to the dividing of Canada.

Because I cannot support some of those clauses, then I am unable to support the resolution before the house.

Mr. F. A. Dewhurst: — Mr. Speaker, I ask leave to adjourn the debate.

Debate adjourned.

SECOND READINGS

Hon. D. V. Heald (Attorney General) moved second reading of Bill no. 81 **— An Act to Prohibit Unauthorized Tapping of Telephone Lines and Unauthorized Recording of Telephone Conversations.**

He said: Mr. Speaker, in moving second reading of the Wire Tapping Prevention Act, I propose to go in some detail into this act, because it is a new act in this province.

Starting at the beginning, of course, section 2 is the interpretation section and corporation is defined to include Saskatchewan Government Telephones, the Rural Telephone System and whatever telephone system is to be constructed and operated under the law of the province of Saskatchewan. In the definition section, judge is defined, so is the limit of applications for an order under section 11 to permit the intercepting and over-hearing of telephone conversations, to be made only by the judge of the Court of Queen's Bench or the District Court.

The definition of peace officer in this bill is more restrictive than the definition of the criminal code, and it is designed to eliminate those by whom an application may be made for an order permitting the intercepting and overhearing telephone conversations, to those who are engaged in the preservation of the public peace as opposed to the private peace.

Section 3, of the bill proposes to prohibit the affixing by any person of any device to the telephone equipment of the telephone system in operation in Saskatchewan, that will in the opinion of the telephone company, affect or interfere with the operation of their equipment. This section also provides that an attachment or device is deemed to be affixed to the telephone equipment, if it is so placed in relation to the telephone equipment that it can be used in connection therewith.

The substance of subsection 1 and 2, and section 3, is taken from the existing Manitoba legislation contained in the Manitoba Telephones Act.

Subsection 3 of section 3 of the proposed bill, provides a penalty provision against this section and is self-explanatory.

Section 4 and 5 of the act may be taken together, I suggest, complementing one another. Section 4 provides for one of the exceptions to the general provisions of the act in that it permits the sale, rent or supplying to subscribers of equipment, known as recorder connector equipment, provided that such equipment is used in connection with telephone equipment installed by the corporation with the recording equipment.

The next section, 5, provides for the use of recording equipment, provided for in section 4 in the event that it is so connected by means of the recorder connector equipment that admits a clearly audible signal when a message is being recorded.

Manitoba and Alberta have similar provisions in their legislation permitting the use of recorder connector equipment so long as the "beeper" as it is properly known, is connected. These provisions are substantially the same in this regard as Manitoba and Alberta.

In section 6 of the act, there is a provision for penalties for violation of section 5, to which I have just referred, that is the use of recording equipment that is not the subject of an order of the Court of Queen's Bench or the District Court and it does admit a clearly audible "beeper" signal.

The penalty provides for fines ranging from $100 to $1,000 and or terms of imprisonment, not exceeding three months. This penalty provision in section 6 is similar to the penalty provision in the Manitoba statute.

Section 7, prohibits of a listening device or apparatus or contrivance that may be used for the purpose of intercepting and listening to messages passing through the telephone system. Such interference is not permitted whether the equipment apparatus or device is attached directly to any part of the telephone system or equipment, or is by means of induction or any other method of interference. This section does not apply to officers or employees of the telephone system using equipment of this nature that the telephone system may supply to its officers of employees for reasons of supplying or providing service or control The prohibition of such listening devices is, of course, subject to the provision of the act, permitting the use under order of the judge of the Court of Queen's Bench, or a District Court, in obtaining evidence of offense against certain specified statutes, and that is section 11 to which I will refer shortly.

This section 7 to which I have been referring is similar to a section in the Manitoba act. Now the section is the penalty section, section 8 which defines the penalty for violations against section 7 and the use of listening devices except under order of the District Court judge. This section provides for penalties ranging from a fine of $200 to $2,000 and or term of imprisonment not exceeding six months. The province of Manitoba, has a closely patterned penalty to that provided by section 8 of the proposed bill. In section 9 and 10 of the proposed bill, I suggest that they can be considered together because they provide aids in dealing with offenses against the statute. They provide for presumptions that the finding of recording equipment, any part which is attached or placed in such a manner that recordings can be carried in a telephonic communications, or possession of equipment or apparatus capable of being used for intercepting, and listening to telephone messages, will be accepted as proof that such equipment had been used for purposes which are prohibited.

Now we come to section 11, which is new, is not in the Manitoba act or the Alberta act, and this section provides for the second exception against the general prohibitions of intercepting, overhearing, and listening to telephone communications in that it does permit the interception, overhearing or recording of telephonic communications, upon satisfying the judge of the Court of Queen's Bench or the District Court, that evidence may be obtained of an offense, against certain statutes. The application to the judge is made by a peace officer. It can be made by a peace officer, as peace officer is defined in the act and it can be made upon affidavit ex parte.

This procedure, I suggest, Mr. Speaker, is somewhat similar to the case of a peace officer who can apply to a judge for a search warrant. This is the same type of thing. Provision is made to the judge to examine the peace officer under oath, and he may examine such other witnesses as may be produced in support of this application, to get this type of warrant.

The second provides that there must be reasonable grounds to believe that evidence of offenses against the specified act may be obtained by the use of such listenings or recordings devices. The statutes which are specified in the act, permitting application, this is the only case where you can make an application — offenses against the criminal code of Canada — offenses against the Narcotic Control of Canada — offenses against the Juvenile Delinquent Act of Canada, and offenses against the Securities Act of Saskatchewan, now that would be three federal statutes and one provincial statute. It is felt that in the restricting of the possibility of such application to the more serious offenses such as criminal code offenses, and Narcotic Control Act, Juvenile Delinquent Act and one provincial statute, the Security Act, that we are restricting considerably the right of a peace officer to make any application at all, for an order authorizing or permitting wire tapping by the police in the course of their duties.

Now, Mr. Speaker, I should indicate to members that when this bill gets into Committee of the Whole, I propose to move an amendment to section 11. I left this with the clerk and I have asked him to supply copies to my hon. friends and I will just read the amendment, and I have copies for you. I propose that in section 11 to strike out the part beginning with the word "believe" in the fourth line, down to and including "communications" in the ninth line and substitute the following:

Believe (a) that a telephone is being used or (b) that a person is using a telephone

in connection with the commission of an offense under the criminal code, the Narcotic Control Act, Canada, the Juvenile Delinquents Act, Canada, or the Securities Act, 1954, of Saskatchewan.

Now the purpose of this amendment is to make it perfectly clear, there has been some suggestion there may be a constitutional problem with respect to section 11, and my law officers have looked into this matter than even with this wording as it is in the printed bill, there is no problem insofar as this section could be declared to be ultra vires. However, we do feel that by this proposed amendment we are strengthening the constitutional argument.

In other words, the argument would be that this legislation is legislation with respect to the use of telephones within the province of Saskatchewan, and as such is intra vires in the provincial legislature, and therefore, it could not be argued that this is legislation with respect to criminal law. This is legislation with respect to the use of telephones in the province of Saskatchewan, and section 11 is making an exception to this general rule that basically this is control of the use of telephones within the province. So it is our view that this presents no constitutional problem by section 11.

Now subsection 2 of section 11, provides that any order issued under subsection 1 must identify the particular telephone number or numbers, or the person or persons, whose communications are to be intercepted, overheard, or recorded. The order is not to be effective for a period of longer than one year, and the order may specify a period of time less than one month during which it may be effective. Renewal periods are permitted upon application to the judge and upon him being satisfied that renewals of the time permitted or such interception over hearing is in the public interest.

There is a penalty provision in this section which makes it an offense for anyone to disclose to a person, other than those specified in the act, any information concerning the application for the granting or denial of an order under subsection 1, or the identity of the person whose communications are to be intercepted and recorded. The persons exempted from the prohibition in this section against disclosure, the corporation whose facilities are involved, the employees of the corporation who are involved, the Attorney General or his agents, the peace officers, and the person making the application for the order.

Subsection 4 of section 11 provides that every order permitting the interception and the recording of telephonic communication shall be served on the manager, superintendent or person in charge of the telephone equipment affected by the order. No action to intercept, overhear, or record, telephonic communications is to be undertaken except under the directions of the corporation whose equipment is affected and the subsection continues to provide that the corporation shall render every assistance necessary to carry out the provisions of the order. This subsection is included as a result of a request of Saskatchewan Government Telephones, outlining that serious problems and implications to S.G.T. could result in respect of the control and operation of its equipment and service, unless the interference with its equipment and service, unless the interference with its equipment was undertaken and under its direction.

Telephone authorities have pointed out to us that the highly technical nature of much of its equipment requiring severe standards to be followed by any persons with access to this equipment. Furthermore, S.G.T. provides high priority communications services to customers, such as the Department of National Defence and cannot assume the risk of such services being affected or interrupted. Most of the telephone services and equipment are required to be under strict security control, and hence an order which empowers a peace officer, or other person, to have access to the telephone authorities facilities, should be required, I suggest, to be under the supervision and responsibility of the telephone authority in the implementation of an order to wire-tap, and this I suggest is in keeping with the telephone authorities obligations for the care of its facilities and services provided.

Section 11 goes on to provide that the expenses incurred by the telephone authority in assisting in the interception, over-hearing or recording of telephone communication are to be in the final analysis borne by the police force or municipality whose representative have obtained the order under this section.

It is anticipated that the telephone authorities will be required to spend a great many hours of its technical staff to arrange for and

supervise connections and interceptions required by peace officers if there are many orders obtained under this section. Consequently reimbursement for expenses involved have been provided for through the telephone companies.

In subsection 6 of section 11, there is a penalty section, providing for a penalty for offences committed under subsection 3 in this section, that is to say the disclosure of information concerning the application for an order. The penalty provision, I believe, is straight forward, providing for penalty of a fine ranging from $200 to $2,000 and in default prison not exceeding six months.

Section 12 of the act exempts from the provisions of the act certain types of equipment providing that the equipment mentioned therein is not installed for the purpose of intercepting and listening to telephonic communications. During the exemption, under this section, the equipment must be party line telephone equipment, telephone extension apparatus or mechanical answering equipment. It is supplied or installed by the corporation at the request of, and for the purpose of providing service to, a telephone subscriber.

Telephone extension apparatus and mechanical answering equipment are generally not conceived as the type of equipment to be used for the interception and over-hearing of telephonic communications and party line services, of course, the rule in rural areas, is also provided by some extent by S.G.T. Hence this type of equipment is exempted from the provisions of the act, provided that it is not used for the purpose of intercepting and listening to telephonic communications.

Section 13 is straight forward, I suggest, it is self-explanatory, providing for the administration of the bill by the Department of the Attorney General.

Mr. Speaker, I have gone into some detail because this is a new concept, parts of it are anyway, and with this explanation I would move second reading of the bill.

Mr. A. E. Blakeney (Regina West): — Mr. Speaker, I simply want to add a few words to the comments of the Attorney General (Mr. Heald) firstly to thank him for his review of the act, secondly t make some comments on the general problem of wire-tapping.

I think that what might be called wire-tapping, might easily be classified into three headings. Firstly, an instance where a telephone conversation is tapped, without either of the parties to the conversation being aware of the fact that there is somebody else listening in. This is clearly a sharp invasion of privacy, since neither of the participants in the conversation are aware of the eavesdropper, and obviously this sort of invasion of privacy can be used for purposes which are entirely improper.

The second type of tapping (and I don’t quite call this tapping) but it can be called this by some, is where two parties are having a conversation, and no third party is listening in, but unknown to one party the other party is making a permanent record of this. This second one is, I think, quite reprehensible where the party making a permanent record, unknown to the other party, proposes to re-broadcast, or spread around this permanent record, and accordingly, this has happened to me, radio stations have called me up and asked me for a quote and I think this is pretty undesirable since a person who is speaking, first ought to know whether a permanent record is being made but most assuredly ought to know if a permanent record is being made for the purposes of rebroadcasting it.

The third category, and much less undesirable, in my opinion, is that two people are talking and one of them is making a permanent record simply for record purposes. Obviously, I suppose the one party should know if a permanent record is being made, but there is not a great deal of difference between someone making notes of a telephone conversation, or having your girl on the other line, as I frequently do, taking down in shorthand what is being said, and having some recording equipment on it. However, I agree that the proper appropriate procedure is one whereby a permanent record is being made that the speaker notice the beep sign, and I do not object to this provision in the bill, requiring that when recording equipment is attached to a phone, a beep be required, and that this be a mater of law and not of practice or courtesy.

In general I do not object to what I take to be the aims and objects of the bill; I do wish to raise, and I will do this in committee,

what I think are fairly serious objections, to some of the wording in the act.

I refer members to, let us say, section 3, where an offence is made subject to the opinion of somebody else, if something is done in which, in the opinion of someone else, produces "x" results it is an offence. I suggest this is an undesirable sort of legislation which may depend upon the opinion of a third party as to guilt or innocence, which would not be at all known to the actor. He wouldn't know whether he was committing an offence or not because he doesn't know the opinion of the other fellow.

I would point out to hon. members that all sorts of equipment are transmitted along lines of telephone companies. Television programs are transmitted along lines of telephone companies, radio programs are similarly transmitted, and anything which says you cannot transmit these things, or intercept them, is very strict legislation. I suggest that it could be argued that if you put a tape recorder beside your radio you are committing an offence under section 5. This may be a particularly stringent interpretation of it, but I want to call that to the attention of hon. members.

Similarly, let us say section 9, which introduces the principle that anyone who has got recording equipment around his phone is prima facie guilty of an offence. Well, now I think almost every lawyer has recording equipment sitting beside his phone, which can be used to record messages in the sense that you hold up the piece of recording equipment to the receiver and I do not know whether section 9 would catch that, but on a strict reading it would. My point, Mr. Speaker, is not to review these section by section, but to point out that the wording of a number of the sections is such as would require the most careful study of the committee because it seems to me that some of them are capable of being read as being a very sharp invasion of civil rights on the other side.

However, with what I take to be the aims and objects of the bill, I can take no objection. The points of refinement, some of which I have mentioned, and others of which I have not mentioned, can I think be more adequately dealt with in committee. Accordingly I will find myself able to support the bill on second reading and trust that adequate explanations will be available in committee so as to allow me to be able to support it on third reading.

Motion agreed to and bill read a second time.

The Assembly adjourned at 10:00 p.m.