

LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
Third Session – Seventeenth Legislature
56th Day

Thursday, April 12, 1973.

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

QUESTIONS

Order for Return Re Intercontinental Packers

Mr. D. G. Steuart: — (Leader of the Opposition) Mr. Speaker, I should like to direct a question to the Attorney General. Some time ago the Members of this Legislature Assembly passed an Order for Return to give certain information regarding the Intercontinental deal. One was how much they owed SEDCO, the other was a copy of the agreement or the agreements entered into between the Government or SEDCO and Intercontinental. Now the first Order for Return has been some time, the last one I think only about a week ago. But surely they have this information and I should like to know when we can expect it? SEDCO is coming up for discussion in Crown corporations and we are getting into the Estimates of Industry and Commerce soon. I think it is vital that we have this information.

Hon. R. Romanow: — (Attorney General) Mr. Speaker, I am sorry I haven't checked more recently than a couple of days ago with my colleague, the Minister of Industry (Mr. Thorson) on this matter. As far as I know there is no reason why those agreements cannot be tabled within the next two or three days. I would only point out to the Hon. Member and I am sure he understands this more than anybody perhaps, because of his involvement with Government, it being a Return it has to go through this sometimes rather convoluted procedure of contacting every other department. In fact, I noticed myself I signed a chit to the Provincial Secretary saying that the Department of the Attorney General has no copies of agreements entered into between SEDCO, etc., etc., so that is part of the delay. The Minister of Industry and Commerce I am sure will be looking forward to tabling it and I will assure the Leader of the Opposition that I will bring it to his attention personally with a view to getting those agreements before the Crown corporations on Tuesday, certainly before the Estimates are called.

STATEMENT

Final Report of the Saskatchewan Legal Aid Committee

Mr. Romanow: — Mr. Speaker, while I am on my feet and before the Orders of the Day, I should like to lay on the table one copy of the final report of the Saskatchewan Legal Aid Committee by Dean Roger Carter. This report is the culmination of about nine months of work by the members of the Carter Committee Study into all aspects of legal aid in the Province of Saskatchewan. The chairman of the committee was Dean Roger Carter of the University of Saskatchewan. Other members of the Committee

were Mrs. Marjorie Heath of Regina, Mr. Joe McIntyre, Q.C. of Regina, Judge Tillie Taylor of Saskatoon, Mr. Cy Halick, Barrister and Solicitor of Saskatoon, Chief Antoine Cote of the Badgerville Indian Reserve at Kamsack and Mr. Linton Smith, Barrister and Director of the Saskatoon Legal Assistance Clinic. They have produced, Mr. Speaker, a very thorough study into the legal aid schemes that exist in other parts of Canada and have made a recommendation for a new legal aid plan for our Province of Saskatchewan.

Mr. Speaker, I regret to advise that the only copy I have is this big copy which I shall officially table. I should like to advise the Members that we are taking steps to type or reproduce in more manageable form, copies for the individual Members. We hope to have that within the next week to ten days or even sooner if we are lucky. So, the moment I receive a copy of the condensed versions I will lay those on the table and distribute them to the individual MLAs. I should also tell the Members, Mr. Speaker, that it is our intention to place copies of the report in the traditional centres for the public to pick up and to study and to read. We, of course, invite our public to get acquainted with the recommendations of the report and to give us their comments with respect to it. As far as the Government is concerned and the department is concerned, we shall be analyzing very carefully and in a detailed way the particular recommendations. I am sure all Members will agree that we have not had very much opportunity to look at the report to date. There will be no further comments from our department as to the merits or demerits of the proposal. We should really like to have more time to look and study the report.

QUESTIONS

Letter from Parent of Deaf Child

Mr. C. P. MacDonald: — (Milestone) Mr. Speaker, before the Orders of the Day I should like to direct a question to the Minister of Education (Mr. MacMurchy).

I have a letter from a parent of a child in the Deaf School in the city of Saskatoon and I just want to quote one paragraph:

I am gravely concerned and this about sums up the way all parents of the deaf children feel about our present methods of education. The low percentage of students qualifying for college and the high dropout at the college level.

I think all Members of the House are aware and the Minister is of what are the problems in the School for the Deaf in Saskatoon in the last ten days. First, an eminent psychologist from Toronto has criticized the methods of teaching. The deaf students have walked out and they are now back attending school. Many of the parents have supported the children and they have been quite critical about the one method of teaching in the school. I should like to ask the Minister, has he considered setting up a review committee to investigate and analyze to see if there is some foundation and justification for the complaints? It certainly must be a very serious problem with the parents and the children both involved. It is certainly outside the realm of politics but it certainly is a key and a fundamental issue

with those parents and those children that are involved.

Hon. G. MacMurchy: — (Minister of Education) Mr. Speaker, there are certainly some problems at the School for the Deaf of Saskatoon. I think it relates to a struggle in approach to teaching where there are a group who say the lip reading approach is the right approach by today's standards. There are others who say that signs are the right approach. I really think that was the issue that caused the walkout. However, there has been a sort of a compromise worked out and the children are back in class. We are planning to set up within the department some kind of a committee to examine the School for the Deaf, and the operation there. I plan to visit the school personally. It was brought to my attention by staff and by parents that Ministers of Education have not spent time at the School for the Deaf and if I visit the School I will be the first Minister who will have had an extended visit. I don't know whether that is true but that is what they tell me. Perhaps the former Minister — you were there — okay. I don't know whether the Member for Wilkie (Mr. McIsaac) was there or not but there are some fairly strong feelings about this. Yes, we will be seeking to the best of our ability to try and take care of the situation. The parents are concerned, the staff are concerned.

Mr. MacDonald: — (Milestone) I should like to ask the Minister just a supplementary question. I assume you know the officials from the Department of Education are the people that, in co-operation with the principal and the staff at the School for the Deaf, who have established the present method of teaching. I should like to suggest that if you are to get an honest and accurate evaluation or assessment of the two contradictory suggestions for teaching methods that you should go outside the Department of Education and bring someone in who has some qualifications and perhaps can look at the situation objectively. Will you consider bringing someone from outside the Department of Education to assist in this review?

Mr. MacMurchy: — Yes, we will do that. It is true that Don Drozda of Special Education has been the one who has been dealing with the people at the school. We haven't worked out what kind of people that we shall use as yet but we will do that. Perhaps because we have been fairly busy in here with other matters but we will take care of it as soon as we can.

Mr. J. C. McIsaac: — (Wilkie) Just a comment, Mr. Speaker. I appreciate some of the problems the Minister finds himself in in this respect. There have been different schools of thought with respect to the approach. I can't say what the Minister has in mind by an "extended visit". If he means an overnight stay, I never stayed over night there in one of the dorms but I did make at least a couple of visits there in the course of the changing of the approach with respect to dormitories and the recent additions up there. Even in that respect there was conflict of opinion as to the approach so that I well appreciate some of the problems he may be having.

Mr. MacMurchy: — If I just might comment.

Because my department is involved to a very large degree in the whole field of Special Education and have taken on special responsibility and acceptance of this whole program, we are finding at the School for the Deaf more and more people who are handicapped beyond just deafness and hard of hearing. There is becoming necessary a whole new approach to the education there because of the various kinds of handicapped that are identified and are sent to the School for the Deaf.

SECOND READINGS

Hon. N. E. Byers (Minister of Environment) moved second reading of Bill No. 86 – An Act to amend The Credit Union Act.

He said:

Mr. Speaker, I should like to make a few brief comments about the Bill before the House to amend The Credit Union Act.

The legislation to provide for the organization of credit unions in Saskatchewan was placed on the Statute Books in 1937. Following retrenchment by the chartered banks in Western Canada during the depression years, credit unions were organized at an accelerated rate reaching as many as 35 to 40 offices in the 1940s. To date a total of 368 credit union charters have been issued. There have been 77 amalgamations since the first merger took place in 1953 and there have been 37 dissolutions since 1954, all without monetary loss to the members. As of December 31, 1972 there were 256 active credit unions in the province and 57 branches or a total of 313 outlets. Membership totalled more than 355,000, representing approximately 38 per cent of the population. Total assets on the same date reached a new high of more than \$608 million, increased during the year of over \$129 million or 27 per cent, which is the greatest increase in any one year in the history of the movement.

I draw to the attention of Members that the average savings per member in Saskatchewan is \$1,591, the highest in Canada. The reserves of credit unions to provide for possible losses amount to \$16.2 million or 2.9 per cent of the liabilities to the members in the form of savings and deposits. A central reserve or stabilization fund was set up in 1953 for the purpose of protecting and stabilizing credit unions in financial difficulties and assisting in the payment of any losses suffered by members of credit unions in liquidation, for providing for such preventative services as may be necessary to avert financial difficulties or losses of credit unions or members. The amount of this mutual aid fund presently stands at \$6.2 million and is available to assist those credit unions which may encounter difficulty. It is considered that with the reserves held by credit unions and the mutual aid fund, the credit union movement in Saskatchewan is in a healthy, financial condition.

Mr. Speaker, I want to comment briefly on the proposed amendments to The Credit Union Act.

Section 24 – The Bill to establish the new corporation, Saskatchewan Co-operative Financial Services Limited, as a subsidiary of the Saskatchewan Co-operative Credits Society is presently before the House. This legislation will fill a need for assistance in meeting the housing and agricultural and general financing needs of members of credit unions in co-ordination with credit unions and co-operatives operating in the province. It is designed to promote the economic and social

progress of Saskatchewan. The amendments to this section were requested by the Saskatchewan Co-operative Credit Society and it makes provisions for credit unions to deposit money in the Credit Society subsidiary; namely, Saskatchewan Co-operative Financial Services Limited, being set up by Bill No. 53, now before the House.

In addition, this amendment will permit Credit Unions to invest in preference shares and in any other securities of the New Saskatchewan Co-operative Financial Services.

Section 77 – The amendments to this Section were requested by the Non-controversial Bills Committee following the 1972 session. Presently the qualifications for auditors are provided in the regulations and as these qualifications are not subject to change, it is felt that the authority for the qualifications of auditors should be provided in the Act.

Section 82 – This amendment provides for the excluding of loans that are guaranteed by an organization or any agency of government from the Bad Debt Reserve requirement. It is considered that such exemption will not effect the stability of any credit union in view of the guarantees presently afforded for such excluded loans. Loans which are now guaranteed by the Government, such as CMHC and Student Loans are already excluded in the regulation or the Standard By-Law, and, therefore, it was considered appropriate to put this provision into the Act.

I might advise Members that this amendment was also requested by the Co-operative Credit Society.

Section 92 – The present Act provides for an amalgamation of a credit union with the Saskatchewan Co-operative Credit Society and the granting to the Society of the rights and privileges of a credit union.

Following the passage of Bill 113 at the 1972 session, the non-controversial Bills Committee recommended to remove from the Act the provision for a credit union to amalgamate with the Saskatchewan Co-operative Credit Society.

The new Section prohibits amalgamation of the society with a credit union. This will prevent the society from establishing itself as a credit union and competing with other credit unions. It does, however, permit the amalgamation of the society and a federation of credit unions.

With those few comments, Mr. Speaker, I would move second reading of the Bill to amend The Credit Union Act.

Some Hon. Members: — Hear, hear!

Mr. McIsaac: — Mr. Speaker, the Minister has given a very good and very concise explanation of the various sections that are proposed in this Act, and I think him for that.

There is a question or two that I might have in respect to the final section in the printed Bill before us, but I think that can be dealt with much more easily in Committee. So, accordingly, I am pleased to support this legislation.

Motion agreed to and Bill read a second time.

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Mr. Byers (Minister of Co-operation) moved second reading of Bill No. 88 – An Act to amend The Co-operative Guarantee Act.

He said: Mr. Speaker, I should like to comment on some of the proposed amendments to The Co-operative Guarantee Act.

The Co-operative Guarantee Act was originally passed in 1947. The last review and amendments were in 1967. Since its inception there have been 125 loans guaranteed under this Act, with an aggregate total of approximately \$2 ½ million. The losses have amounted to about three per cent.

The amendments being presented this year are to some extent of a housekeeping nature. They are also consistent with the Government's policy to encourage agricultural production and secondary industries. Among recent loans reviewed under this Act are the Alfalfa Cubers Mutual, which is a co-operative established to harvest and process alfalfa into cubes for livestock feed. The Assiniboia Feeders, a co-operative operating a large cattle feedlot primarily was organized as an alternate method of marketing feed grain.

Recent loans reviewed by the Co-operative Guarantee Board include a loan to a store at Buffalo Narrows, so that the program under this Act will also continue its encouragement of development in northern Saskatchewan.

The amendments proposed this year include provision for guarantees on certain loans, made to individuals, by Co-operative Financial Services Limited. This new credit organization is being established as a fully owned subsidiary of the Saskatchewan Co-operative Credit Society. This additional source of credit to individuals, along with the possibility of guarantees under certain conditions, should provide a needed credit facility especially in rural areas.

The amount of liability assumed by the province under this Act, for loans made by the Saskatchewan Co-op Credit Society, was set at \$1 million, when this Act was originally passed in 1947. Due to the effect of inflation and other factors since that time, and also to encourage some home-owned development through a co-operative activity, the amendments proposed this year include provision for guarantees of up to \$5 million for the Saskatchewan Co-operative Credit Society and \$5 million for Co-operative Financial Services Limited, for a total of \$10 million, an increase from \$1 million.

Accordingly, I would move second reading of this Bill.

Mr. T. M. Weatherald: — (Cannington) Mr. Speaker, the Member for Morse (Mr. Wiebe) who would normally be the spokesman for our side on this Bill is ill today, but in order to prevent holding this Bill up before the House, I will just make a few brief remarks.

I believe that we have no objection to it whatsoever. In fact it will have our support because it gives the opportunity

to lend more money for agricultural enterprises and certainly this is something that is badly needed in the province.

The Co-operatives and Credit Unions, these Bills are somewhat related in the sense that they are allowing for more financial participation by them in different local enterprises. This is certainly good. Both have done an excellent job in the past and I am sure in the future, to keep a close contact at the local level with the possibilities of some types of economic development and the opening up of further financial participation by the Government assisting them. The further guarantees of money is a step in the right direction and the Bill will have our support.

Motion agreed to and Bill read a second time.

Hon. E. I. Wood: – (Minister of Municipal Affairs) moved second reading of Bill No. 89 – An Act to amend The Rural Municipality Act, 1972.

He said: Mr. Speaker, I should like to say a few words in moving second reading of this Bill, to amend The Rural Municipality Act.

Most of the amendments that are proposed here are in a direct response to resolutions approved by the rural municipalities at annual conventions, and the intent of each amendment has been reviewed with the SARM.

This Bill clarifies the definition of voter and establishes the fact that a voter is either a burgess or an elector.

We have before now, from time to time, received legal opinions that hold the taxes are an imposition and do not constitute a debt for the purpose of disqualifying a candidate for the office of councillor. The Act contains a provision to support this opinion but there are indications that the wording is ambiguous and this Bill will clarify the intent of the previous section.

I want to say, Mr. Speaker, that many roads in our rural municipalities are maintained during the winter months through the efforts of local snow plough clubs. The operation of these clubs depend upon the support and participation by all rural residents living along the roads served by each club and frequently the clubs operate under a contract with the municipality.

This Bill will allow a councillor to operate the equipment of such a snow plough club without being disqualified as a councillor because of this employment. They find that this is a necessary thing in many municipalities from time to time that the councillor be allowed to operate a snow plough for the benefit of the community, and shouldn't thus be disqualified as a councillor.

This Bill will also allow councils to establish the per diem rate and the mileage allowance for each member of council for attending meetings of council and the time occupied in supervising public works in the municipality. Similar rates shall be paid to the reeve or deputy reeve for the supervision of the office, but no change has been made in the number of days

that members of council may occupy in fulfilling these responsibilities and be reimbursed.

The present section of the Act requires the secretary to include in the voters' list the name of every person in the last revised assessment roll. The voters' list shall also include the name of every person who has purchased property in the municipality on or before September 1st. In such instances, the voters' list will include the names of both the previous owner and the purchaser. The municipalities feel that the previous owner has no longer any interest in the administration of the municipality and that his name should not appear on the voters' list. The amendment that is proposed here will accomplish that objective.

This Bill will correct an omission which occurred during the consolidation of the Act last year.

A person who is nominated as a councillor is not required to live in the division which he will represent, but his nomination form must be signed by two voters of that division. There was an error in the Act last year and we want to clarify this this year.

The present Act permits the council to pass a general penalty bylaw for imposing a fine for an infraction under bylaw passed under the Act. The maximum fine shall not exceed \$100. The SARM, Mr. Speaker, contends that \$100 is too small to allow the judge sufficient latitude in assessing the seriousness of the infraction and in determining a suitable penalty. The Association requested the maximum to be increased to \$1,000, but however, we feel that a maximum of \$500 should be adequate for this purpose. I would point out, however, that this legislation is permissive and the council of each rural municipality can establish a lesser amount if it so desires.

Mr. Speaker, a legal interpretation of the present Act, indicates that a council of a rural municipality has the authority to levy on the hamlet, an assessment for the costs of installing street lights, but has no authority to recover from the hamlet the costs of supplying the energy for the street lights. This will permit the council to recover the expenditure if it deems it desirable to levy on the hamlet for this purpose, for the purpose of supplying power and as well for the putting of lights in the hamlet.

The Department of Natural Resources grants grazing leases within a provincial forest to local residents, but the grazing leases do not relate to any delineated area of land and this makes it practically impossible for a municipality to place a land assessment against the occupant. The loss of such revenue to these municipalities which are affected is minimal and we are exempting the holders of these grazing leases from municipal taxation.

During the past several years the Saskatchewan Association of Rural Municipalities has presented resolutions and requests for legislation to authorize a higher assessment being placed on property used for intensive agricultural operation. These operations received the benefits of all services provided by local governments but the property taxes on the land assessment alone, does not produce sufficient revenue to cover an equitable share of the costs of the services supplied to the operation.

The buildings used in these operations will not be assessed, but the floor space or confined yard space will be assessed on a square foot basis for the purpose of calculating a business tax. The assessment of these operations will be determined according to a schedule approved by the Minister. In the first instance this will be calculated on the basis of area and the number of animals being raised or fed at one time, after discussing with the owner to determine the proposed size of his operation and thereby ensure that any area which is classed as confined and unused is not included in the total assessment.

Mr. Speaker, I have gone into some detail in regard to the amendments in this Act. If there are further question on these we will be very pleased to discuss them in Committee of the Whole.

I would thus move second reading of this Bill.

Mr. McIsaac: — Mr. Speaker, just a few brief words. We will certainly be supporting the Bill. The first few amendments deal with relaxation of the qualification of a voter and there is certainly nothing wrong with that. Several others deal with the relaxation of the prohibitions, if you like, of those wishing to run for councillors and I think they are good, there is nothing wrong there.

The one proposed amendment, Mr. Speaker, that I suggest is not going to do the job that the Minister perhaps hopes it might, is Section 12 of the Bill, with respect to levying a business tax on an intensified livestock operation.

I know something of the problems of municipalities in trying to create some greater effort in taxation in this respect. At the present time the farmer who has maybe 100 or 150 beef cattle, he has in most cases got the land to support those cattle and as such is paying a land tax, is paying taxes because of his cow/calf operation.

Another category of livestock operator which we might describe and it is getting more into the larger bracket, is the chap who buys 100, 150 or 200 feeder cattle at this time each year and grows them on his pastures throughout the summer. Sort of a backgrounding operation and that is becoming more important with the new grading system and the need to grow these cattle for a period of time.

This gentlemen is also, in nearly all cases, putting these cattle on his own pasture, his own land, and as such he is paying taxes. The final end of the cattle operation is the finished feeding which is becoming more and more specialized and a man doesn't need much more than 80 acres or a quarter section to be into a pretty extensive business operation. This is farming, if you like, in livestock in a much larger way than are perhaps his neighbors with 10 quarters and 100 cows.

I am not sure that the provisions that the Minister has here are going to meet that situation and provide equity in that respect. And, again, I will be the very first to say I am not sure what figures one would use or just how that could be handled. Nobody likes talking about increasing or broadening the tax base, but there has been an inequity in this respect. It is going to become greater as we see more specialization in

cattle particularly, as well as hogs and, of course, poultry which is covered here.

I don't know where the Minister found the particular figures that he used here, or whether he has any indication of how many operations are going to be covered by sticking with 800 cattle as opposed to the chap with 500 down the road, but it is at least a beginning and I suppose it is one amendment that I should like to have the Minister amplify and discuss a little further when we get into Committee on this Bill.

WELCOME TO THE STUDENTS

Mr. D. F. MacDonald: — (Moose Jaw North) Mr. Speaker, I should like to take this opportunity to introduce to this Assembly a group of students in the east gallery. They are 66 grade eight students from King George School in Moose Jaw, two classes, two quite large classes, I might add. They are accompanied by their principal, Mr. Murray and the assistant principal, Mr. Segall. I hope that the two classes will enjoy their visit to the Legislature today. I am sure their teachers will enjoy the visit here today as the first debate we will be listening to is The Teachers' Collective Bargaining Act. I think they will find it very interesting. I hope the students will be able to gain a greater awareness of the parliamentary procedure and I hope they thoroughly enjoy their visit here today. I should like all of the Assembly to join in welcoming them here today.

Hon. Members: — Hear, hear!

Hon. A. E. Blakeney: — (Regina Centre) Mr. Speaker, it gives me a good deal of pleasure to introduce to you and through you to this House a group of students in the Speaker's Gallery, ten grade eight students from the Thompson School in Regina Centre constituency. They're here with their teacher, Mrs. Beverley Coulter. We look forward to visits from students who are interested in and are studying social problems and current events. We hope that their visit to the Legislature tells them something about how we govern ourselves and how we make our laws. And we trust that their visit with us this afternoon will assist them in understanding what is a pretty complicated process. I do welcome them and express the hope that they enjoy their stay with us.

Hon. Members: — Hear, hear!

ADJOURNED DEBATES

Second Readings

The Assembly resumed the adjourned debate on the proposed motion by the Hon. Mr. MacMurchy that Bill No. 80 – An Act respecting the Negotiation of Collective Bargaining Agreements for Teachers be now read a second time.

Mr. D. G. Steuart: — (Leader of the Opposition) Mr. Speaker, in rising to speak to this very, very important piece of legislation, I am going to suggest at the conclusion of my speech that the Government withdraw or at least adjourn this debate and take another look at this Bill, and in fact I would hope that they would withdraw the Bill and rewrite it before they bring it back to this Legislature Assembly. I would also hope that they would do more, they would carry out more consultation with not only teachers and trustees, but also concerned parents as well.

I object to Bill 80 because it's a bad Bill, it's a poor Bill. It will, without a doubt, set trustee against teacher. The possibility is there that it will set government against trustee against teacher. The possibility is there that it will set government against trustee, government against teacher. This Bill has the ingredients for future conflict written into almost every section and every page.

How did we get this Bill in front of the House, how did we arrive at this point? Mr. Speaker, when we were the Government we set up something which came to be known as area bargaining. Area bargaining was set up to try and conduct negotiations between teachers and trustees with less conflict, with more trust and allow them to carry out the responsibilities that they both had to the people whom they were responsible to, the parents of this province, the school children and the taxpayers. Both groups, in the final analysis, receive their ultimate power from the people and have their ultimate responsibility to the students and the people of this province.

Area bargaining was not a success. And I won't go into the reasons for that today. I don't think the reasons are as important as the fact that it didn't succeed. Certainly, when you're talking about bargaining, the people who are involved in that bargaining, who sit on both sides of the table, must have trust and must have confidence in the procedure.

Now the NDP made this a great issue in the last campaign and politically I would say they made it one of the more successful issues. They said that if they became the Government they would change the Act governing the bargaining for teacher salaries and teachers' working conditions and they would take out the conflict and they would bring in a vehicle or an instrument through an amendment to the Act that would work. So they brought in Bill 80.

I think that if anyone takes an honest and dispassionate look at Bill 80 they will find, as I have said, in many sections of the Act, that the stage is set for even greater conflict than we have seen in the past.

To begin with, for the first time in the history of Saskatchewan, the Government will be intruding into the bargaining process between the actual employer, the trustees, and the teachers. In fact, on that bargaining committee the Government representation will be larger than either those of the teachers or the trustees.

It is also a fact that the trustees could well be mere observers at the bargaining table where to this point they have been one of the two major parties.

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The Government outnumbers the trustees and so the Government can decide what they will place on the bargaining table for consideration of the teachers in regard to salaries. If you look at this Act closely you can see where at the provincial level, in regard to salaries, you can have conflict between the teachers and the Government. Or you can have conflict between the trustees and the Government, with the teachers in this case observing this battle. You can have conflict between the trustee and the teachers. In other words it is increasing by 200 or 300 per cent the opportunity, the chance, for conflict.

And then if you look at the so-called bi-level arrangement for bargaining for other working conditions at the local level, again, you see all kinds of opportunities for conflict. We can have going on in this province possibly as many as 100 different bargaining units. You can have an agreement in regard to salaries and a disagreement in 30 different areas in regard to working conditions. you can have an agreement across the board, locally, in regard to working conditions for teachers and absolute total disagreement at the provincial level in regard to salaries.

So, as Mr. MacDonald said, there is built into this legislation a time bomb, maybe a dozen time bombs.

There is another point that needs to be examined more closely than it has up to this point. And that is that it is almost impossible to separate salaries from other working conditions. They are too closely tied together. Fringe benefits as they are called, including pension rights, including hours of work, including holiday provision, including a host of other things that have been loosely termed fringe benefits or 'other working conditions'.

These are just as important to teachers, and should be, as salary levels themselves. And so one year you may find teachers quite willing to forego a larger salary increase in lieu of better pension rights or better holiday rights, or better increment rights. You may find that they are ready to do this but it may be impossible. Because when you talk holidays and other working conditions, you are bargaining at the local level, with as I say, as many as 100 units doing the bargaining. But when you are bargaining for salaries you are bargaining at the provincial level.

So, Mr. Speaker, that is why I say it is a bad Bill. I say the trustees are not happy with this Bill. And I say the teachers are not happy with this Bill. There are some provisions I am sure the trustees like, there are some provisions that trustees are opposed to. I am sure there are some provisions that please the teachers, and I know there are other provisions where they don't think the Government went nearly far enough.

And so we have seen from Press reports of representatives of both the trustees and the teachers, that they are not satisfied with this Bill. I say that it is a bad Bill for another reason.

It takes away more local autonomy. It is one more step by this Government to take power unto themselves. It is one more step by this Government to centralize power over education. We are going to be considering The University Act shortly, another

outstanding example of the Government taking more power unto themselves.

We have seen it in the field of agriculture, we have seen it in the field of business, we have seen it in the field of health, and we are looking at it now in the very vital field of education.

I say, again, that the people who have been forgotten in this Act are the pupils and the parents. Mr. Speaker, for those reasons alone I would ask the Government to withdraw this Bill and renegotiate in good faith with the teachers and the trustees and the parents. Then come back into this House with a Bill that has some chance of working.

Mr. Speaker, there is another reason I think that the Government should withdraw this Bill and reconsider it. I say, on the advice of people who certainly know more about it than I do, that this Bill may well be ultra vires the legislation of Saskatchewan to enact. I don't say this on my own judgment as I am not a lawyer and I am not an expert in constitutional law.

But this question as been raised seriously and I raise it seriously today, by school boards and trustees across Saskatchewan and they have had extremely competent lawyers look into this matter.

So I should like, this afternoon, to look for a few moments at this constitutional question.

Now the problem centres around the position of the Separate School system in our province. I want to make it very clear, Mr. Speaker, in bringing up this point, that it is not my intention to revive any of the old arguments regarding the Separate School system, nor am I speaking either for or against legislation that has been enacted to protect the Separate School system. That is not the question that we must address ourselves to today.

What we are talking about are either legal facts or they are not. What we are talking about are facts as they may exist and facts and laws that are on the Statute Books of this province.

I am told that the vital statute in this regard is section 17, of The Saskatchewan Act 1905.

As you may be aware the Separate Schools in the older provinces of Canada are protected under Section 93 of The British North America Act. I think we all know from history that this protection was the centre of a raging controversy surrounding the Manitoba school question of 1890, and it was found that the BNA Act provided no real protection at that time.

In 1905 the Parliament of Canada passed The Saskatchewan Act, creating our province. I have a copy of The Saskatchewan Act here. By Section 17 they entrenched the rights and privileges of Separate Schools and Separate School Boards as they stood under the North West Territories law as it was at that time. I quote from Chapter 42, Section 17, subsection (1) of The Saskatchewan Act, 1905:

Section 93 of The British North America Act 1867, shall apply to the said province with the substitution for paragraph 1 of the said Section 93, of the following

paragraph.

1. Nothing in any such law shall prejudicially affect any right or privilege with respect to Separate Schools which any class of persons have at the date of passing of this Act, under the terms of Chapter 29 and 30 of the ordinance of the North West Territories passed in the year 1901.

Now let's look at the ordinance of the North West Territories, 1901, and I have a copy of that document here. And I quote from Chapter 29, Section 45 of the North West Territories Ordinance, 1901:

After the establishment of a Separate School District under the provisions of this ordinance, such Separate School District and the board, thereof, shall possess and exercise all rights, powers, privileges, and be subject to the same liabilities and methods of government as is herein provided in respect of public school districts.

I should like to draw to the attention of the Members present the word 'herein' in the above section. If the legislation at that time read, "as is provided in respect to public school districts" instead of "as is herein provided under public school districts", there might be some reason to argue that the legislation could be amended by the Legislature.

This section is very specific as it states, "as herein provided" and, "as is provided or as may be provided".

Now, Mr. Speaker, I should like to quote from Chapter 29, section 95, subsection 17 of the same ordinances. These are the powers that were given at that time to the separate school boards and which this argument says are entrenched and cannot be amended by this Legislative Assembly. Subsection 17 reads:

To engage a teacher or teachers duly qualified under the regulations of the department to teach in the school or schools in its charge on such terms as it may deem expedient.

Now in this subsection they are, of course, referring to the powers of the local school boards in the hiring and paying of teachers. By the laws of this province separate school boards have the right to hire teachers and to fix their contracts as they see fit without the intervention of any other body or group including the Government of Saskatchewan. Transfer of the power to negotiate or to determine the salary or terms of contract from a school board to a provincial committee may pre-judicially affect the rights, power and privileges of the separate school board. As a result of this, there is obviously a good case for the argument that the essential elements of this new collective bargaining Bill is ultra vires the Saskatchewan Legislature to enact.

Mr. Speaker, as I said earlier, there are not my opinions but the opinions of people competent in the field of constitutional and educational law. There was a document circulated through the Saskatchewan School Trustees' Association to members of the executive and from it I should like to read to this House a quotation from an opinion given by Dr. M. C. Shumiatcher on

this matter. Now as Members may know, Dr. Shumiatcher made constitutional law his field of study for his doctorate of law. I am quoting Dr. Shumiatcher:

It is my view that Bill 80 and particularly sections 3 and 4, though not restricting my opinions to these sections alone, are ultra vires the Legislature of Saskatchewan to enact as being in conflict with section 93 of The British North America Act, 1867 and section 17 of The Saskatchewan Act of 1905.

I should also like to draw the attention of this House to the fact that The Saskatchewan Act of 1905, which sets out the guarantees with which Bill No. 80 may conflict, cannot be amended by this Legislature. In fact, The Saskatchewan Act, 1905 cannot even be amended by the Canadian Parliament. Only the Parliament of Great Britain and Northern Ireland has the legal power to change the provisions set forth in The Saskatchewan Act. I personally have no doubt that because of the very deep opposition to this bill by many people involved in education in Saskatchewan that it will be contested in a court of law. There is no question in my mind that the constitutionality of Bill 80 will be challenged. Now this can be done by a school board or separate school supporter, in fact, any citizen of this province. It is also my opinion that there is a very good change that the courts could find in favor of this argument, find that we exceeded our powers if we pass this Bill.

I understand that the Attorney General's Department has been made aware of the serious constitutional question that will be created by the passage of this Bill. If this is so, and I would hope the Attorney General would say whether this is a fact or not, it seems incredible to me that the Attorney General has not notified Members of this House of the question and that he himself has not suggested that the Bill be withdrawn until Members of his legal staff can study the full implications of Bill No. 80. If this has been done, then I would ask him to table these studies so that they will be known by us and the people of this province.

Mr. Speaker, as I have tried to make clear, I should like to see this Bill withdrawn for many reasons other than the constitutional one but I would think that for that reason alone, the Government should be prepared to pull this Bill at this time and if they find that it is in conflict with the laws of this province to again sit down, as I said earlier, with the teachers, the trustees, with the ratepayers and with the parents, and, in a more reasonable manner than they have proceeded at to this point, see if they can devise an Act that should do at least two things. It should be an Act in which both parties, the trustees and the teachers can have full confidence. It should be an Act that leaves as much power and authority at the local level.

Over the years we have seen education, both the physical plant of education and the authority of education, move farther away and become more centralized. And I don't think this has all necessarily been a bad thing. Certainly the replacement of the local schoolhouse with the larger school units posed some problems, but at the same time it created a much better school system for the children of rural Saskatchewan. But make no mistake, it did pose many problems and it did move the ultimate

authority for what went on in our schools one very large step farther away from the control of local ratepayers and from parents. With the development of the comprehensive schools in the cities, we have seen this trend continue to ever larger schools encompassing not only the children that live in the urban areas but also the children that live in rural areas surround some of our larger urban centres.

And again, this has been done in the name of better education and better facilities. Larger schools attract better qualified teachers. Larger schools can afford to have better and more modern equipment to help educate our children. No one can deny this. But equally I don't think anyone can deny that these moves of centralization have not been without cost. They have removed to too great an extent the real authority over education from the parent and local level. And as this has happened there has been a tendency for parents, more and more, to leave the total education of their children to the teachers and the school system. And I don't think this is the way it should be or the way it was ever intended to be. The teachers have an absolutely vital role to play in our society and in our educational system. But the parents have an original and an irrevocable responsibility in regard to the education of their children and they have a responsibility in regard to the educational system. We legislators should not continue to make it more difficult for them to exercise their responsibilities intelligently.

So, Mr. Speaker, these are some of the reasons why I think this is a bad Bill. I think it sets up conflict. I think it will not do what it set out to do and that is to make the very important negotiations between teachers and trustees simpler and better. I think the reverse will happen. And I have raised here and I think there are many people in this province very seriously raising the question of the very constitutionality of this Bill. We may have exceeded our powers in the past and that is no defence. If someone stands up and says, then if this is ultra vires, and then look at this Bill or that Bill, it might have been passed through legislatures including our own Legislature, this is not an argument. This just adds to the problem, compounds the problem, and I think if this has been brought to our attention we owe it to the school system in this province to take a very serious look at the questions that are asked here.

I would hope that the Attorney General (Mr. Romanow) or someone on that side would adjourn this debate. We're not going to. The ball is in your court. And take a look at this and come back and say we've looked at this seriously and we find that there is no conflict. Then, of course, it's up to the people concerned if they want to take the challenge to the courts. They have that privilege and that right and I'm sure that the Government of Saskatchewan would not attempt to step in their way or stand in their way. In fact, I think they would give them some support as they have done in the past. But I don't think we need to go that far. I think the first step should be to take an honest look at it by legal experts who are available to the Attorney General and the Premier and then say, "We think it's a serious enough question to pull the Bill and study it", or "we don't think it's a serious enough question and we're going to proceed with it." But at least the people of this province will know and the trustees will know that the Government takes the points that are raised here seriously

enough to look into it, to study it and to report to this Legislature and to the public.

Some Hon. Members: — Hear, hear!

Hon. A. E. Blakeney: — (Premier) Mr. Speaker, I had not proposed to enter this debate, or rather, I did not propose to enter at this point. But I think that several of the points raised by the Leader of the Opposition (Mr. Steuart) deserve to be answered and deserve to be answered now so that no misconception will rest in the minds of the people about the points which he has raised. Let me deal first with a few of the more general points which the Leader of the Opposition raised. I want to make clear just what is under debate in this House. What is under debate is a Bill to amend the current teacher salary bargaining arrangements. Now either you're in favor of our amendments or you're not. And if you're not in favor of our amendments, you're in favor of the law as it presently stands. You've got two choices; either the law as it presently stands or the law as we propose it to be. The Opposition, I'm afraid, cannot successfully say area bargaining has failed.

Mr. Steuart: — You said that.

Mr. Blakeney: — The Leader of the Opposition has just said area bargaining has failed, and yet he is saying to this House — “But don't change the law that provides for area bargaining”.

Mr. Steuart: — Don't make it worse.

Mr. Blakeney: — Well, all right, I'm glad to know that the Leader of the Opposition indicates that what we are doing here is measuring between two bargaining methods, neither of which is perfect. We are not asserting that the Bill before us will solve all the problems of teacher collective bargaining. We just say that it will work better than the Bill introduced by Members opposite when they were in the government.

Some Hon. Members: — Hear, hear!

Mr. Blakeney: — We don't say that there will be no conflict. It's not possible to determine the salary and working conditions of 10,000 people in this province employed by more than 100 school jurisdictions without having some measure of conflict. So there will be conflict. The question surely is whether this Bill will work better than the Bill introduced by Members opposite. The question is not whether the Bill will be perfect, but will it work better?

Now the Bill which we have proposed is based essentially upon two principles. We propose to negotiate at the provincial level those things which are best negotiated at the provincial level and which, in effect, are now being negotiated at the provincial level. And those things are set out in the Bill. They include superannuation which has been negotiated at the provincial level one way or another for a good number of years now; group life insurance which falls into the same category; salaries of teachers, which used to be negotiated at the local level but which undoubtedly now are effectively negotiated at

the provincial level.

Some Hon. Members: — Hear, hear!

Mr. Blakeney: — The situation effectively is this. There used to be a wide number of different patterns of payment for teachers. Over the last ten years each group was working through its central organization and has, in effect, insisted that these terms and conditions be effectively negotiated on a province-wide basis. And now we have in salary schedules throughout the province virtually the same salary schedules in the north west as we have in the south east and in the north east as we have in the south west. I am asked to believe that this came about as a result of the meeting of minds of a hundred school boards and a hundred groups of teachers. Not true. We all know that it came about as a result of a meeting of the minds essentially of the SSTA with a good deal of Government influence and the STF. That has produced the present patterns and they're virtually uniform across the province. But this Bill does one other thing. It acknowledges the reality of province-wide bargaining for salaries and superannuation and the like and then it attempts to set up for local bargaining a good number of other things which are sometimes now negotiated locally and sometimes now negotiated at the area level. And this represents a positive addition to local autonomy. Let me make clear that when the Leader of the Opposition says that this Bill contains the seeds of conflict, that it will permit one hundred separate negotiations to go on across this province, and that that's a bad thing, then he is denying the benefits of local autonomy.

Some Hon. Members: — Hear, hear!

Mr. Blakeney: — It's not possible to decry the fact that teachers and trustees of a hundred different places will be negotiating locally across this province, to decry that and then at the same time to say — "but we must have local autonomy". If we believe in local autonomy, as I suggest we all do, then we have got to take the bitter with the sweet. And one of the possibly bitter elements is the fact that there will be a wide divergence in the patterns of bargaining which develop, a wide number of adjustments to meet local situations. And surely, that's what local autonomy means. And surely, this Bill with the pattern set out of greatly increasing the number of things which will, in effect, be sorted out at the local level, means that there will be far more local autonomy rather than less once this Bill is passed.

Some Hon. Members: — Hear, hear!

Mr. Blakeney: — The Leader of the Opposition says that neither teachers nor trustees are satisfied and I acknowledge that. I acknowledge that this Bill does not satisfy the teachers, does not satisfy the trustees. It wasn't intended primarily to satisfy teachers or to satisfy trustees. It was intended to set up a system which will work for the benefit of students.

Some Hon. Members: — Hear, hear!

Mr. Blakeney: — That was the test which we applied, "Will it work?" We believe that this system will work, not perfectly, perhaps

even not well, but we suggest, better than the old system.

Some Hon. Members: — Hear, hear!

Mr. Blakeney: — Now may I turn for a moment to the point raised by the Leader of the Opposition with respect to the Act being ultra vires, and consider the situation which he is putting to this House, the position that Section 17 of The Saskatchewan Act where it provides that school boards may employ teachers on such terms as it may deem expedient, that means that no one else can bargain a salary on behalf of separate school boards. Consider that proposition, consider that proposition in the light of the advocacy by the Saskatchewan School Trustees Association of province-wide bargaining in 1968. He is asking us to believe that the School Trustees Association was advocating a pattern of bargaining which was opposed to The Saskatchewan Act. Then it will be recalled that the Government of which he was a member brought in area bargaining. I am sure that the Attorney General advised that Government that that Bill was intra vires. I hope he is not telling us that the Attorney General of that day brought in a bill which was contrary to The Saskatchewan Act without even checking whether it was intra vires or ultra vires. I hope he is not telling us that Attorney General who is now a Federal judge failed to advise his colleagues that this Bill might be ultra vires.

Mr. Steuart: — What is your opinion, you're the Government.

Mr. Blakeney: — Our position is simply this, Mr. Speaker, if the old bill of 1968 was intra vires, this Bill is intra vires.

Some Hon. Members: — Hear, hear!

Mr. Blakeney: — If the Bill of 1968 was ultra vires, this is ultra vires.

Mr. Steuart: — Maybe it was, so look into it!

Mr. Blakeney: — Members opposite now suggest that the Bill which they stoutly defended and which they introduced on the advice of their then Attorney General might have been ultra vires and accordingly, we should not proceed with our Bill. Well, I want to say this. I have not had an opportunity to study the constitutional aspects of this in full, but I am confident that this Bill is intra vires.

Some Hon. Members: — Hear, hear!

Mr. Blakeney: — I am confident . . .

Mr. Steuart: — Judge Blakeney!

Mr. Blakeney: — . . . I regret that I belong to a political party which is unlikely to lead to the situation of my being Judge Blakeney.

Mr. Steuart: — You don't have much confidence in David Lewis, and I don't blame you . . .

Mr. Blakeney: — Well, I don't have confidence in the fact that we will achieve Federal power in the near future. That is not the purpose of my remarks at the moment. The purpose of my remarks is to point out that a federal judge reached the conclusion that the Bill before us, in effect, is *intra vires*.

Mr. Steuart: — You don't know if he did or not!

Mr. Blakeney: — I say this to you, I believe this Bill to be *intra vires* because I do not believe that any act of general application to all school districts setting out, let us say, teachers' superannuation or a whole series of things dealing with the terms and conditions of the hiring of teachers—let us say the whole apparatus of teacher tenure—is contrary to the idea that a school board can hire teachers on such terms that it deems expedient. We have already put into the statutes a myriad of statutory provisions setting out the terms and conditions upon which teachers can be employed by school boards in this province. The suggestion that they are all *ultra vires* with respect to separate school boards, the suggestion that they are all *ultra vires* because separate school boards can employ teachers on such terms and conditions as they deem expedient and, therefore, any regulations with respect not only to salaries as this Bill points out, but to tenure to membership in the Saskatchewan Teachers Federation and the like, are all *ultra vires*, is going to come as a bit of a surprise to a lot of people in this province. I do not think that any court will adopt that view. This is why I am confident that this Bill since it does not select out separate school boards for any special treatment of any kind and since it applies to separate schools all of the regular arrangements with respect to teacher employment that it applies to teachers in public schools and does not in any way undermine the continued existence of separate schools, will not be held to be *ultra vires* by any court in Saskatchewan or indeed in Canada.

Now, it may well be that somebody will raise it, there is nothing to stop anybody from suing another person. I noted the other day in the paper some suggestions that I was going to be sued with respect, I think, this time it was about Intercontinental. My mind went back to the last time I was sued. The last time I was sued was by a group of Liberal lawyers who were trying to undermine Medicare. I was sued personally and served with a writ by a group who then were trying to undermine Medicare. Now it is suggested that others of us are going to be sued with respect to some other activity. The last time I was sued was presumably on behalf of the CMA; this action will presumably be on behalf of a group of international packing companies, I don't know.

At any rate, I am suggesting that it is the easiest thing in the world to start a legal action. I just don't think there is merit, I don't think there is merit in the argument which says that this Bill is *ultra vires*. We propose to continue on the basis that it is *intra vires*. If it is attacked, we will defend it and if it is ultimately upset as it may be five years down the road — and who can possibly tell — we will deal with that situation then. But I say this to you, Mr. Speaker, and to the Members opposite: to suggest that we should withdraw this Bill because it is *ultra vires* and leave on the statute book a

Bill which must be equally ultra vires on the grounds that this is somehow good government strikes me as an argument which would only appear to the Member for Prince Albert West.

Some Hon. Members: — Hear, hear!

Mr. Blakeney: — We will not be deterred from what we believe is a useful contribution to the school bargaining arrangements in this province by what we think is an argument which has no merit, and, if it has merit, would lead to a situation which in every way would be just as bad as the situation which the Opposition wants us now to avoid. I see no merit in that whatever. We believe we should continue on our stated course, we propose to do that.

I have one or two other points that I want to reply to, primarily those raised by the Member for Athabasca. I did not intend to speak today on this point, I do intend to refute a few of his more obvious errors of fact, his more egregious errors of fact. I don't want to take too much time of this House, but that may take quite a while. Accordingly, I beg leave to adjourn the debate.

Debate adjourned.

The Assembly adjourned 9:38 o'clock p.m.