LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
Third Session – Seventeenth Legislature
57th Day

Friday, April 13, 1973.

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

ANNOUNCEMENTS

Birthday of Sergeant-at-Arms

Mr. E. I. Wood: — (Minister of Municipal Affairs) Mr. Speaker, before we go into Orders of the Day, I should like to tell you and the House that I have on good information obtained the knowledge that today is the birthday of our Sergeant-at-Arms, Mr. Ponto, and I should like to wish him on your behalf and behalf of the Chamber many happy returns.

Hon. Members: — Hear, hear!

ADJOURNED DEBATES

Final Report of Special Committee on Review of Liquor Regulations in Saskatchewan.

The Assembly resumed the adjourned debate on the proposed motion by Mr. Faris (Arm River) that: The Final Report of the Special Committee on the Review of Liquor Regulations in Saskatchewan be now received.

Mr. M. Feduniak: — (Turtleford) Mr. Speaker, being one of the Members on the Liquor Review Committee, I too should like to make a few comments.

There has been a lot said in different areas so I will deviate and speak on a little different problem here. I listened to some of the statements made by the Member from Rosthern (Mr. Boldt). I believe he is sincere regarding our drinking problem and my sentiments are with him. He seems to be very opposed to any liquor beverage consumption. If he believes that he is such a perfect Christian I should like to make him aware that liquor beverages were consumed by the people way back in the days of Christ. Not only did Christ feed the multitudes of people with wine but he also converted water into wine at the great feast.

He criticized the Liquor Review Committee and said it was a waste of money and served no good purpose. Mr. Speaker, I am not a bit surprised, all small minds think this way. Liquor is something that is not new. It has been with us for centuries. The fact is that liquor is controlling many of our people, creating our liquor problems. In order to solve these problems we will have to reverse this. People will have to control liquor rather than liquor controlling people.

Mr. Speaker, we got many briefs and submissions from all over the province. Some were to curb any actions which would increase and encourage drinking. On the other hand, the others were no doubt designed to create more profit for the operators, obviously

profit oriented. I can't blame them in this type of dog eat dog society. It seems that under such a society every time you correct one problem you create two more. Mr. Speaker, I am sure that everyone of the members of the Liquor Review Committee after meeting, speaking and listening to those in the many rehabilitation centres where administrators were very concerned and dedicated in their work of research and treatment in order to help these unfortunate people, these members were greatly impressed.

Mr. Speaker, these victims are not always to blame. I believe that in many, many cases it is largely due to our corrupt society which is geared toward the great powers and exercised by a few privileged, who monopolize, exploit and create deficiency, unemployment, strife and wars. Thus come disillusionment and frustrations to many of our citizens in our society. Mr. Speaker, it is evident that the majority of the heaviest drinkers that fall into this category are people in the lowest income, lower education level and those living under poverty conditions.

Mr. Speaker, I was very much impressed and interested by the three-hour lecture that was given to the Committee by Dr. Hoffer in Saskatoon. In brief his lecture enlightened us with the effects on some of the heaviest drinkers who at some point resort to alcohol for their entire food requirement, and deprive their bodies of many vital vitamins necessary to balance and supply the body of normal requirements to provide a healthy condition. At this point they consume large quantities of sugar and coffee resulting in a very serious deficiency in vitamin B3. These conditions create severe schizophrenics who become subject to hallucinations and illusions. Mr. Speaker, personally, the reason I was so impressed by Dr. Hoffer's lecture was because of his formula which I believe is very effective and has helped many victims. The Nassau Place in New York where we had the pleasure of visiting, also used Dr. Hoffer's treatments in rehabilitation which have proved very successful. Mr. Speaker, when we visited Cook County in Chicago in regard to drunken driving I thought they had a very sensible approach toward these people. The formula gave the convicted an alternative, a choice between a jail term, fines or a safety course with lectures and films showing the disastrous effects of accidents, proving and creating a better understanding and a desire to become a responsible citizen.

Mr. Speaker we could curb liquor sales and consumption by doubling the price of liquor and no doubt this would reduce the sales and consumption but what would this do? Mr. Speaker, it could create a situation where many of our children and others could be deprived of their food and clothing and other living privileges because more money would be spent on booze. I believe that in order to correct the drinking problems education is one important step. Start in kindergarten and follow it up all the way. It is important that our young people are given the opportunities to education and jobs.

Mr. Speaker, I also have several reservations, most of these have been voiced. One reservation I should like to state is the matter of liquor advertising. I believe that this advertising should be allowed our provincial news media because most of our new media originate outside of Saskatchewan over which we have no control. I don't think we should deprive our advertising of this portion of their business.

Mr. Speaker, in view of the fact and considering such a controversial issue, drafting a report was a difficult job. After the final Report was drafted I believe that the Report by our Committee is a very comprehensive one. Mr. Speaker, to all the members of the Liquor Review Committee, staff and the researcher, I wish to thank you all for your co-operation and participation. It was a pleasure working for you.

Some Hon. Members: — Hear, hear!

Mr. T. M. Weatherald: — (Cannington) Mr. Speaker, I intend to keep my remarks very brief in regard to this debate but I should like to say a few words.

First of all I want to say that there has always been a great deal of talk and discussion about the ability to educate people in the proper manner of drinking. I, personally, doubt as to whether this ever has worked or ever will work because I don't believe that people really can be educated in the proper manner in drinking. I think it is something that is inherent in a person's physical makeup frequently and in actual fact, I have read several articles although I can't prove they are scientifically accurate that scientists themselves can very frequently determine when babies are born the possibilities of them actually becoming heavy consumers of alcohol because of the chemical makeup of their body. I know that we all know individuals who because of their body functioning simply don't like alcohol, whereas other individuals may well consume large quantities of alcohol and yet actually alcohol agrees with them to a large extent. We all know people who can drink a considerable amount of beer on one day and a considerable amount more the next day whereas other individuals would find it completely rejected by their physical makeup. So I am very skeptical about any education program that will ever show individuals the proper method or manner in which they should drink, although obviously some methods are better than others.

I want to say that I find the Report in my view as somewhat contradictory. There is a great emphasis put on the rehabilitation procedure and yet later on, in my view, the Report becomes very permissive in a number of areas. I think that our drinking laws in Saskatchewan have already taken a dramatic change for higher consumption by lowering the age and by the allowing of alcoholic beverages. I might say that I have not opposed these and I think these changes were desirable. But at the same time having made a substantial number of changes we are in a period when we should look to slowing down or possibly stopping any further changes allowing more consumption at this time. It is because of this that I will briefly outline my objection to a number of the recommendations, most of which have already been made by other Members.

Before doing so though I would suggest that the .08 in my view is a reasonable level as far as drinking drivers are concerned and .08 should be retained as it is. This level at which a person can be determined to be a drinking driver is a difficult one to determine and I think that scientific evidence shows that this is probably as good a compromise as could be arrived at. So I would support the retention of .08. However, I would totally oppose any drinking in cars. I think that this would do nothing but lead to great difficulties and most of those difficulties have already been mentioned by other Members.

I also oppose the suggestion that liquor should be sold in grocery stores. I think this is better kept in the type of outlets that we have now. Again most of the reasons have been given by other Members. I don't agree that consumption should take place in campsites and at picnics. I think these campsites and picnic grounds are frequently and largely made up of young people with their parents, particularly children. I can't see really how consumption of liquor would add very much to most of these situations.

Also, Mr. Speaker, I want to suggest that the idea that consumption by minors accompanied by parents or guardians would be extremely difficult to enforce. I realize it does exist in Manitoba but I really don't know when a 14 or 15 year old comes into a café how you could determine whether they were with a guardian or not. It is quite conceivable they are just with a friend who is 21 or 22 years of age and I don't really know how you could say a 14 or 15 year old was actually not accompanied by a guardian. I don't know how you would prove when guardians were actually in their company or whether they weren't. Certainly I think this provision would leave it pretty wide open, particularly travelling young people who are travelling across the country. In the case of one being a minor and the other one 21 or 22, I would think that they could certainly act in the guise of a guardian and be able to order liquor then.

One of the items that I should like to dwell on to some extent, Mr. Speaker, is the consumption of liquor at sporting events. I have had the opportunity to attend a number of events because Manitoba does have consumption at sporting events. Certainly I fail to see how it could be said that this added anything to the actual event itself. To illustrate, last year I was at a baseball tournament in Manitoba where there were about 10,000 people. The bar was open at 11 o'clock in the morning and it was about 90 above that afternoon and I happened to know some it was about 90 above that afternoon and I happened to know some of the people who were actually helping conduct the event. By 6 o'clock that day there had been a consumption of 6,000 bottles of beer and they had run out. Now that was one particular Sunday afternoon. You know when you open it wide open for drinking at a sporting event, you have the baseball tournaments, rodeos etc., that run all day and you open up the bar on a hot day in the summer at 11 o'clock in the morning. Usually baseball or softball isn't over until the evening and a great quantity of liquor is consumed and really I couldn't see where this contributed anything to the sporting event. I might add that talking to a few other people there they thought that it certainly did not contribute anything to the day whatsoever. It was a Sunday and many families had gone to the sporting event for the whole day and some of the family had ended up drinking beverages all afternoon. So I would certainly oppose this. I don't think it is necessary. I think that there is ample opportunity now for a person who to obtain liquor and there are certainly lot of place to drink it, in your home or in beverage rooms etc. I don't really think that these relaxations are necessary.

So with these few comments, generally speaking I think that there are some very good ideas in this Report. It looks as if it was a very worthwhile Report to me but generally speaking I think that we have opened up our liquor laws sufficiently in the last few years and we should, for lack of a better word, have a consolidation period and I would, at with few exceptions, reject any move to allow increased consumption of liquor.

Mr. G. F. Loken: — (Rosetown) Mr. Speaker, I want first of all to commend the Liquor Committee on the detailed Report and recommendations made to the Legislature. Many of these recommendations I agree with. We know final decisions will be made by the Government after a study of this Report.

One recommendation I would ask the Government to give serious consideration to is commercial advertising for beer and wine.

Mr. Speaker, the Government's concern for creating and maintaining employment in Saskatchewan's smaller communities could be demonstrated by a decision to permit our publishers and broadcasters to have access to brewery and winery advertising dollars.

Because Saskatchewan breweries and wineries are denied effective use of all provincial advertising outlets, the substantial sums they have available for advertising purposes are now being spent outside the province with the result that the employment and other economic activity this spending generates, is lost to the Province of Saskatchewan.

At the same time, Saskatchewan's ban on beer and wine advertising does not prevent Saskatchewan people from hearing and seeing beer and wine advertising.

National periodicals and other publications circulate extensively in Saskatchewan and are loaded with beer and wine advertising.

Cable television now available only in a few centres, imports beer wine advertising, and with the imminent wiring of Saskatchewan's major cities will come a floor of beer and wine advertising from outside sources. Radio and television signals of Alberta and Manitoba radio and television stations penetrate into Saskatchewan, and with both these provinces now allowing beer and wine advertising, the Saskatchewan Government's policy is not only harmful to the preservation and development of community media services in Saskatchewan, it is also ineffective, and will be increasingly ineffective in shielding Saskatchewan people from such advertising.

Mr. Speaker, no one can deny that the smaller communities in our province benefit tremendously from their local news media services, and that they need their services if they are to prosper, and grow, and enjoy a better quality of life.

Certainly, anything the Government can do to protect the viability of community newspapers and broadcasting stations will pay enormous economic, social and cultural dividends.

Mr. Speaker, the small radio stations and small newspapers are badly in need of additional revenue.

I would urge the Government to give serious consideration to beer and wine advertising for Saskatchewan.

Some Hon. Members: — Hear, hear!

Mr. C. P. MacDonald: — (Milestone) Mr. Speaker, I too should like to add a few comments

relating to the Liquor Report.

First of all as a member of the Committee I want to say in all sincerity, I think the Committee worked very diligently to produce a good Report. I want to congratulate the chairman, I think he particularly worked very diligently and made a very valid contribution. I think the Report took a long period of time but I think the duration of the period of time that lapsed between the establishment of the Committee and the final Report was certainly worthwhile.

I want to talk just very briefly about the general philosophy of the Report. First of all I think the concentration was on three areas. Education, rehabilitation and marketing. I agree with the concept and the general philosophy of the report. I believe the role of Government is to provide the rules under which people are permitted to drink. I don't think that the Government has the right or the responsibility to attempt to restrict the drinking habits of people. I think that prohibition proved that as somebody indicated in a previous speech, that drinkers go underground, it only assists in the bootlegging and other aspects that are certainly negative to society and are not as conducive as they should be to good drinking habits.

I think the concept of the role of government is first of all to establish the kind and type of premises that drinking should be permitted in. They should certainly establish the hours and the rules and the places. They should also then, try to indicate the standard of the establishment.

I think the philosophy of the Report in this had one general tone to it.

First of all we recognized the problem that alcohol was a serious problem in Saskatchewan, in Canada and certainly in the world.

Secondly, that drinking was here to stay, unfortunately, whether it is good or bad as far as health is concerned. Therefore, our role and our task was, first of all, to try and make sure that every young person and everyone in Saskatchewan know the good and bad effects of alcohol, and particularly the bad effects, namely the influence or the impact on health, the impact on the mental capability of an individual as drink became a serious problem.

Also I feel that then the Committee attempted to say, look if we can't restrict drinking, our job then is to try and improve or change the pattern of drinking. And particularly in relation to premises in Saskatchewan that we have over the years seen a general improvement and a gradual attempt to change the pattern of drinking.

I remember back in the '50s the beer parlor was not permitted to have ladies or females enter what in most cases was a dungeon. It was made up of men, the clothing attire, the vocabulary, the atmosphere of the old beer parlor was only conducive to selling beer and permitting people to drink and sit in a chair.

Then, of course, over the years we have improved first of all the establishment by introducing cocktail lounges, introducing mixed drinking. Then eventually we went into shuffleboards and so forth with the concept that the beer parlor or the

licensed premises in Saskatchewan should be a social place, a social gathering place where people wanted to drink. It was a place where they could come and drinking wasn't the only thing that was available to them in that particular place. I think this Report takes that into consideration.

I have some very serious reservations even though I did not express them in the Report about the pricing policy on absolute alcohol content. The reason I didn't express a reservation is first of all I didn't have the knowledge – there is so much contradictory research on this particular subject – absolute alcohol certainly has some validity when it comes to talking about distilled spirits. But I think it would have a very serious impact on the working man. If the absolute alcohol content was carried to its final conclusion, for example, a bottle of beer would be more than doubled, almost tripled in price. It would certainly be a great boon to the distiller and it certainly, I think, would penalize the working man who likes to stop and have his bottle of beer after work.

However, until more research is done in this, to see the actual impact on drinking habits around the world this research has just really begun. There is a lot of contradictory evidence. For example, in many of the other countries in Europe where they have done some research as to what is the impact of alcoholism, for example, in the wine drinking countries, in the beer drinking countries and the spirits drinking countries.

To me the evidence so far is inconclusive. And therefore, I have very serious reservations about the ability of a pricing policy based strictly on absolute alcohol content that will prevent consumption as the Report seems to suggest. However, until as I say, more research and more information is available, I think the Government should proceed with this recommendation with caution and try and get as much more information as possible.

I want to say too, that I have placed two reservations, firstly with the Report. And I say both of those reservations were not in any way attempting to change the overall philosophy of the Report, of changing the social pattern of drinking in Saskatchewan, or providing more educational services and of course to expand rehabilitation facilities.

The two reservations I had were first of all related to (1) live entertainment. I have no objection to live entertainment per se. I think this is in keeping with the philosophy of the Report which is to expand or to change the pattern of drinking and licensed premises. But I am concerned about the economic and practical aspects of it, particularly in rural Saskatchewan.

As you know all beer parlors or licensed premises are restricted in the number of chairs by the Liquor Licensing Commission in Saskatchewan. Some of them have as few as 50 or 60 chairs, whereas, down the road, another licensed premises might have 100 or 150. And a fellow with 50, 60 or 70 chairs in his particular premises, in no way can afford very costly live entertainment. What will eventually result is the fact that the people in his community that normally supported his premises will certainly go to the next town or perhaps to the city where live entertainment is available. And the overall impact of attempting to keep a hotel or licensed premises in a community is a very important viable part of that community. I think that any of us who come from rural Saskatchewan know that, for example,

in my home town the hotel burned down. Immediately following that a lot of the shopping habits of the people in that community changed. People who had only a mile or two difference between Wilcox and Rouleau or Wilcox and Milestone eventually began to go to Milestone or Rouleau where there were licensed premises in order that they might also take advantage of that particular accommodation.

I think live entertainment has been a boon in some ways. It certainly changed the atmosphere in many of the premises in Saskatchewan. But it has also brought bankruptcy to a lot of operators. It becomes very, very competitive. Certainly the musicians are the first ones to benefit by it and you hear some very outrageous and outlandish stories about the price that is paid for live entertainment. I think that we have in Saskatchewan now enough live entertainment. I think that we have in Saskatchewan now enough live entertainment. In fact the city of Regina is often called the night spot in Western Canada.

I have heard reports that there is more live entertainment in the city of Regina per capita than any other city in Western Canada including Vancouver, Calgary and Edmonton.

Mr. Robbins: — And the entertainment right here.

Mr. MacDonald: — And the entertainment is also in the Legislature. So I do have reservations about that particular aspect.

I should also like to say my second reservation related to the recommendation which indicated that drinking should be permitted in cars while travelling with the exception of the driver, of course. I have very strong objections to that. Not from the idea of restricting drinking but from the idea of the potential danger on the highway.

All of us are aware of the fact that casualties and deaths on the highways are increasing very rapidly, in fact, the death rate on Saskatchewan highways went up very dramatically during the past year.

It has caused a great deal of concern. We have seen SGIO rates increase very dramatically. The mortality rate is one of the reasons according to the Minister in charge of the Saskatchewan Government Insurance, for SGIO rate increase.

We know also from police reports and medical reports that liquor is playing an increasingly dangerous part in death on the highways and casualties and accidents on the highways. What we really are saying by this particular recommendation is that we are making the car travelling drinking premises.

In other words if there are four or five people in the car, that they can stop and buy a bottle of spirits or a case of beer and they can use their car as licensed premises, that they can sit down and supposedly enjoy the benefits of drinking. I also suggest that it is impossible, absolutely impossible to have the driver of that particular vehicle not influenced. First of all by the alcohol itself and secondly by the people in the car.

I think all of us have had an opportunity to drive in a car where there have been people who are very heavily under the influence of liquor. We know what kind of an influence they

have on the driver himself, particularly if you have every been the driver of the car when that particular person was influenced in that way. I think you will recognize that it is a potential danger. A potential danger that can turn around and increase death on the highways, increase the driving hazards. It is a terrible thing to drive down the highway with your wife and family in the car and know that you can obey every safe driving rule in the books and then end up being hit by someone who happens to be under the influence of liquor.

That is the only thing I want to say on those two reservations. As I say they are not against the general philosophy of the Report, but they are specific practical applications.

I also want to talk for a minute on the recommendations, the general overall philosophy on education and rehabilitation. I agree with my colleague the Member for Rosthern (Mr. Boldt) that the emphasis should be on education. I should like see the Government and the Alcohol Commission get into a new area of advertising. I think all of us are aware that when the Federal Government put on the smoking ads that a lot of people in Canada, even though smoking continues to increase, did feel the impact of the smoking ads. I should like to see them use the modern media, television and radio and put on a real education program about the dangers of alcohol consumption. And in that way, I think, by educating and using the modern medium that we can have some kind of an impact on the drinking habits.

I should also like to say as far as rehabilitation is concerned I would urge the Government to take real care in setting up very costly institutions. As a member of the Liquor Committee we travelled across Western Canada and we visited many of these institutions. Most of them are very high cost institutions. For example, in Edmonton, one cost well over a half a million dollars a year. They had a potential of looking after 40 or 50 clients at a time, for a long period of time. All of us know what institutional care costs in the Province of Saskatchewan. We only have to look at our correctional institutions, our hospitals, our nursing homes and realize that for the dollar value of rehabilitation, an institution for long term care, to me is the poorest investment.

I should like to suggest that the best dollar value is an out-patient clinic. I was very, very amazed at the number of people that could be handled in good out-patient clinics established in Vancouver, Edmonton and other places, where they took people off the street, they come in in the morning before work, they came in for an hour or two during the working day by arrangement whom they are able to communicate with and were able to have an impact on was dramatically higher, and the costs were dramatically lower.

I suggest in assessing the Report, and particularly the section on rehabilitation, that the Government should be very, very careful about making any decisions to enter into very costly long-term stay institutions.

I also want to say one word about the fact of the recommendation regarding a certain percentage of alcohol profits being used for rehabilitation and education. I think it is long overdue in the Province of Saskatchewan. Even though our Government didn’t do this. As you know we did establish the Alcohol

Commission. We did very dramatically increase the overall expenditures on this program. I would say that it is about time that the Saskatchewan Government, including all the Members of this Assembly recognized that when alcohol becomes a very important source of governmental funds and that we are the sole custodian of the alcoholic beverages in the Province of Saskatchewan, we set the rules of the game, we set the price, we take in the profits, we use them at our own discretion, then surely we have a very serious responsibility to use a very substantial portion of those profits for rehabilitation and education. And up until now it has been a pittance. Up until now we have really had no impact, we have not really had the kind of comprehensive program that is required. Therefore, I would certainly urge the Government to take that recommendation very seriously. Establish a very definite per cent, whether it is 10 or 15 or 20 or 25 per cent, and use that and use it wisely. I think we have the foundation now in Saskatchewan under the Alcohol Commission where they now have the structure, where if they are provided the funds they can do a good job.

Mr. Speaker, I enjoyed the Liquor Committee, I enjoyed the work on it. I enjoyed the contribution of all the members of the Committee, and I want to congratulate them on that regard.

Some Hon. Members: — Hear, hear!

Mr. L. Larson: — (Pelly) Mr. Speaker, I wanted to say a word or two with regard to the Alcohol Committee Report.

First of all I would compliment the Committee for a job well done. I didn't have the opportunity of serving on the Committee but I can see by the Report and listening to other Members who served on the Committee that they did a very thorough job.

I have read the recommendations. I have heard some of the comments made in the House with regard to them. I don't find basically too much to quarrel with. I think the general tone and the general content of the Report is pretty well in line with today's society, their thinking and their concept of alcohol and its use and its dangers, I might add.

My own personal feelings are that if prohibition would stop drinking, I would go for prohibition. But of course this is not the case. We have had that experience. Failing this then, it is my belief that we have in this province and in this country, an attempt to set up alcohol consumption under controlled circumstances. This to me, is the sensible route to take. And having adopted that route, it becomes incumbent on the Government to try to do what is necessary and what is sensible to try to handle what is a very serious and a very dangerous problem.

With regard to premises I agree that we have come a long way from the old style of beer parlors and the like. This, to my way of thinking, has been an improvement. We now have premises where ladies can enter and in my judgment I would say that it was improved the environment and has made it a lot better. This doesn't say, however, that we can't go further and improve still further. I have, over the years had occasion to observe them very closely. Being a musician I have had occasion to be in some of these places where live entertainment is provided and where men and women drink together under different environments. So I say that the premises ought to be improved as much as is

possible and the standard, Mr. Speaker, should certainly be a very high one.

With regard to outlets, I am not in favor of increasing to any great extent the number of outlets for liquor. It seems to me that we have a fair amount of outlets and we certainly don't need to go to any great lengths in increasing these outlets. I would therefore have some very serious reservation in putting even low alcohol content beverages in grocery stores and the like.

With regard to rehabilitation, I would concur with what other Members have said. I believe that the Government has a very serious responsibility in dealing with this problem. I think the one fact that is very often not recognized in the alcohol problem as well as the drug problem are the reasons and the causes behind people getting into this position. This high pressured society with its stresses and its strain certainly drive people in the direction of alcohol, drugs and the like. This carries with it a certain amount of responsibility, a lot of responsibility insofar as rehabilitation goes and I would concur in its concept. Enough has not been done and a lot more needs to be done.

One of the areas I the Report that I didn't find any recommendation at all was the position many of our native people find themselves in. We have our government stores, Mr. Speaker, where we sell liquor to them with the blessings of the state. Many of the reservations are closed to liquor so they buy it, pay the tax, and they have no place where they can consume it, whatsoever. They go out, they drink it in alleys, they drink it in cars, or they drink it in sheds, wherever they can find a place to hide. And of course, the environmental result of this is a very detrimental one. It seems to me that the Committee ought to have looked into this problem and probably made some recommendations. I feel very bad when I see native people coming out with a bottle of wine, wanting a drink, probably not wanting to get drunk, but they want some place to drink it, and they have no place to go. Consequently, they hide somewhere, are picked up, and the whole thing is very unsatisfactory.

I am a little bit amused by some of the comments with regard to drinking in cars. It seems to me that we are confusing the issue by saying that I ought not to be allowed to have an ounce or two of liquor in my car. Certainly, I can't agree that if we are going to use our cars for excessive drinking that it should be allowed. Nor do I agree that we should be allowed to use our homes or any other place for excessive drinking. The problem is not the drink or two, the problem arises when you drink in excess. And I suggest that it doesn't make an awful lot of difference whether you drink in excess in my home, or your home, or someone else's home, or in a car. When we get to this stage then we are dealing with the abuses, not the uses. It seems to me rather ridiculous if I'm riding as a passenger in my own car, I have liquor with me, I want an ounce or two, that it's illegal and that I've become a criminal just because I take and swallow an ounce or two of liquor in my own car. Certainly, I agree that we ought not to have excessive drinking but let's not confuse the two issues. Excessive drinking anywhere, in my opinion, is harmful and if there was any way that we could prevent it then I would be for this. However, I note that the Committee has no recommendations with regard to where or how you stop excessive drinking, whether it's in a car, or home, or

anywhere else.

With regard to advertising, I believe that Saskatchewan is going to have to take a realistic look at the advertising picture. Certainly, if we want to keep our small radio stations that are operated independently and, in my opinion, doing a very good job in the province, we should look seriously at either supplementing their income through some other form of advertising or allow them to advertise liquor and enjoy the revenue that's made available. In contacting these people we find, as I'm sure the Committee did, that we are not immune to liquor advertising. Any time you pick up a magazine or listen to a radio station outside of Saskatchewan you're subjected to liquor advertising. So I think this is one area where we ought to be very careful in not closing the door to a source of revenue that we need to sustain and to support our local radio and television stations. I would not want excessive, blatant advertising, but certainly a restricted kind of advertising, in my opinion, would probably assist in keeping some of these small stations viable and doing the kind of job that they have been doing in Saskatchewan.

Aside from this, I find the the Liquor Committee, as I have said, did a rather commendable and good job. I was particularly pleased that they spent time in looking at other provinces, other countries, and looking at their ways of handling this particular problem. I think we would have missed something very valuable if we had restricted the Committee to studying Saskatchewan or probably even Manitoba and Alberta. So I say that this was a wise move. It gave us an insight into a lot of things that probably we wouldn't have gotten ha this source and this avenue not been made available to them. So, by and large, I again want to congratulate the Committee and I urge that the Government consider very carefully the contents of the Report, the recommendations and implement some of them at an early date.

Some Hon. Members: — Hear, hear!

Mr. M. Kwasnica: — (Cut Knife) Mr. Speaker, I am pleased that this Legislative Assembly saw fit to set up a committee to study the problems of alcohol and make recommendations to the Government.

Mr. Speaker, our Committee of 12 was a fairly good cross-section of the public. We had members from almost every point of view in that Committee. It is expected then that since the general public is not of one mind in the matter of alcohol that our Report would reflect the public mood on this vital matter, which does not follow political party lines, or religious lines, or race, or color, or creed. Therefore, Mr. Speaker, I must admit that our Report has some inconsistencies and at times it must appear to be contradictory.

I would place my bias frankly and out in the open and would consider myself as a moderate. I feel that moderation is the most sensible approach to the use of liquor. It is regrettable, however, that there are some 30,000 people in the province who cannot drink in moderation. For some this is a mental problem for others it is a physical or a biological problem. It is sad that these 30,000 problem drinkers affect the lives of four or five others and therefore directly involved about 120,000 other people in the province.

I should like to point out to this Assembly and the people of Saskatchewan that this Report does not stress liberalization. The Report proper contains some 69 pages. Of these only 11 pages deal with suggestions for so-called easing of the liquor laws while 58 pages deal with the problems of alcoholism, a pricing policy, the need for education, rehabilitation, treatment, research and suggestions for dealing with drinking drivers. This fact has been totally overlooked by many speakers who have spoken in this debate today.

Mr. Speaker, I should like to comment on several specific recommendations that need further explanation and I should like to present some of the Committee's thinking on them.

Why did the Committee recommend that passengers in vehicles be allowed to consume alcohol? Now the Committee's major concern was the littering problem. If liquor could legally be consumed in automobiles by passengers, not the driver, then it would not be illegal to carry open bottles in your car, or bottles with the seal broken. Therefore, it would not be necessary to get rid of the evidence by tossing empty bottles and beer cases and wrappers out the car window, into the ditches and on to our roads and highways in order to get rid of the evidence. If we have trained and sensible drivers who know and understand the problem of drinking and driving we will not have to worry about his passengers influencing the driver one bit.

Now let's look at it practically in another way. Picture a tired husband driving with his wife and family to the beach on a hot Saturday afternoon. He lets his wife drive. He'd like to sit back and relax and perhaps have a bottle of beer. Under present laws he would be fined for drinking in a place other than a dwelling. This is the problem. Furthermore, just because there is a law against drinking in vehicles does not prevent people from drinking because drinking is a highly personal decision anyway. Our problem is to teach drivers responsibility. The driver is totally responsible for his passengers, his vehicle and other vehicles on the road. And our Committee has placed this responsibility where it belongs, on the driver, by recommending a reduction to .06 blood alcohol content instead of the .08 now in effect. If a driver is so irresponsible as to cause an accident because of drinking under suggestion of his passengers or being easily distracted he doesn't have much self control or common sense and he would probably cause an accident anyway.

I would like to point out that several European countries allow drinking in vehicles and accident rates did not necessarily increase because of this law because of a sensible, responsible and mature attitude of drivers in those countries. I doubt very much that many or our drivers who have been in accidents got drunk in their car or did their drinking in their car. I really doubt this. I believe that if research was done we would find that they did their drinking in the bars or in the lounges or at house parties and then tried to drive afterwards. I think this needs serious and close consideration.

I am pleased to see the recommendation that the Government work toward the goal of spending up to 10 per cent of its annual liquor profits on education, rehabilitation and research. This was my personal recommendation to the Committee. There is so much that needs to be done in our province. Current treatment programs are able to deal with only about five per cent of the

known alcoholics. This is not a very good record of performance. And I hope our Government will soon correct the situation.

The Committee was convinced early in its deliberations that bootlegging was a serious problem in larger cities. Not only do bootleggers provide alcohol at all hours of the day including Sundays and holidays but many bootleggers engage in other illegal forms of business such as sale of other drugs, stolen goods, as well as promoting prostitution. Our Committee was of the opinion that if we were serious about this problem there was really only one sensible approach aside from extreme police control. That approach would be to extend the hours of sale at liquor stores in larger centres to 2:00 a.m. if necessary. Whether this recommendation would achieve the desired end remains to be tested and documented. Then and only then will we know for sure if we were on the right track or not.

It was the opinion of the Committee that it was far better to encourage sensible drinking patterns amongst the drinking public. We felt that those beverage rooms and cocktail lounges that sold booze only were doing a disservice to the public. They encourage heavy drinking because they don't provide entertainment or food. The Committee felt that food and entertainment were a must in order to divert the concentration on heavy drinking and drunkenness. And I am sure that the majority of the public will support our views in this regard.

Mr. Speaker, I should like to say a word about some of the comments of Members opposite. It's really sad, Mr. Speaker, to listen to the Member from Rosthern (Mr. Boldt). He seems to be still wallowing in the 19th Century philosophy, total prohibition, a police state, heavy fines, never let children see or taste liquor. I guess he would rather have our youngsters trying the stuff secretly in back alleys, on abandoned roads, and in vehicles, under cover of darkness.

Allowing children to enter licensed dining rooms with their parents is a sensible approach. This does not mean that the children will automatically drink. The parents will make that decision with the children. It's not true to assume that children are being taught to drink. They will have a chance to witness a sensible and moderate drinking pattern, drinking with a meal on a special occasion. And I can see nothing wrong with this whatsoever.

I was very disappointed to hear the Member from Rosthern say that we should give up on the alcoholics and concentrate on the young people. I would agree with the second part but not with the first. There are many alcoholics who are being helped and being cured today.

Then the Member from Albert Park (Mr. MacLeod) made a few remarks. It was obvious from his remarks that he never read the Report. His speech proved that beyond a doubt. He got up and ranted an raved about the noise level in a particular licensed premises that he was once at, condemned live entertainment for its noise, obviously totally unaware of the Committee's recommendation 14 on page 80 which states and I quote:

> That in licensed premises where entertainment is allowed accepted and safe noise levels be established and policed.

Mr. Speaker, members of the Committee were given access to

many informative articles, briefs, reports and books on the matter of alcohol and drug abuse. As a matter of fact, we were flooded with too much material to assess.

However, we did the best we could. One book entitled "Booze" written by Jim Gray of Calgary presented members with a very interesting thesis. Mr. Gray traced the use of alcohol use on the Prairies and went on to prove that on the whole prohibition of 1914 to 1924 worked. His statistics prove without a doubt that convictions for drunkenness dropped drastically as prohibition continued. In Saskatchewan the peak of 2,970 convictions for drunkenness of 1913 dropped to 1,062 in 1916 to a low of 434 in 1918, and a jump again to 919 convictions in 1920 as prohibition began to be relaxed.

Mr. Gray in his book went on to show that crime of all kinds paralleled those for drunkenness. In Saskatchewan the figures reached a peak of 13,782 in 1914, a drop to 7,072 in 1917 and a rise to 7,991 in 1920 but still not reaching the 1914 level. Figures prove the same patterns of behavior evident in our neighboring provinces of Alberta and Manitoba.

A striking testimonial came from Mr. Justice T.G. Mather of the Manitoba Court of King's Bench in 1918 and I quote:

> While liquor was freely sold in the bar rooms and throughout the province a very large proportion of the criminal cases which came before the courts were for the infliction of personal injury, such as wounding, stabbing and murder committed during a drunken brawl. Since prohibition there has been a very large diminution in the number of wounding cases. One further result is that within the six months the jails at Morden and Minedossa have been closed because there was no longer any necessity to keep them open.

So it would appear from Mr. Gray's book that prohibition worked.

The Committee was faced with the dilemma of whether prohibition would be acceptable to the public of today. It is probably a foregone conclusion that the public would not accept this as the best method of dealing with the problem. However, I am certain that the public is ready for a new direction. We believe they are ready for a new and dynamic thrust in the field of alcoholism and this Report will provide that direction which is needed.

Now, since prohibition is not acceptable today as a solution we must look for different and bold steps. It is a proven fact that the more people drink the more people become alcoholics. In other words, increased consumption means increased alcoholism and we have charts and figures from countries the world over to prove it. Our Committee has proposed the bold step of a social health pricing policy. We are suggesting that the price of alcohol be related to disposable personal income. That prices of alcohol should increase as personal income increases. This has not been the case up to now. Under such a system, price must represent alcohol content; prices would have to increase to such an extent as to reduce the level of consumption by putting alcohol out of the reach of many people. Under our proposed pricing system, price would be more closely related to absolute alcohol content. Cheap fortified wine prices would increase, but table wines would come down; most beer prices

increase, but the prices for hard liquor would probably remain about the same. Under this proposal liquor prices would be increased annually. Now the big problem with this type of pricing policy is that it needs inter-provincial co-operation and support from our Federal Government. However, if we can't get Ottawa to implement a sensible pricing system, then I call on all Western Premiers to take the necessary steps to initiate a meaningful pricing system for alcohol. It is our hope that this policy will be implemented in the not to distant future.

Mr. Speaker, our Committee went merrily on its way assuming that education would be a strong weapon against alcoholism. However, we were somewhat surprised to hear opinions expressed by Drs. Pophan and Schmidt of the Ontario Addiction Research Foundation. It was the opinion of these learned gentlemen who are researchers by profession that we should not expect that massive education programs will solve the problem entirely. They quoted as their evidence the fact that the French who have a very high rate of alcoholism have the best educated alcoholics in the European Continent. They are well-behaved, well-mannered, can tell you in a flash the terrible liver and brain damage caused by alcohol. They know the facts, they quietly continue to drink their booze and continue to turn into alcoholics.

However, Mr. Speaker, our Committee is still of the opinion education is vital but we will have to devise educational programs and methods that will change attitudes toward drinking. To build sensible attitudes and instil in our youngsters the proper respect for the potential killer, alcohol. Any educator knows that it is the biggest task to change attitudes of people rather than just teaching them facts which they can parrot back. A great deal will have to be done in this regard to provide the suitable kind of education for Saskatchewan children and adults right from kindergarten through to old age.

Mr. Speaker, as a member of the Liquor Committee and sub-committee chairman for the section of rehabilitation and treatment, I should like to offer some suggestions for direction that our Government must take in order to meet the needs of Saskatchewan people today.

First of all, to deal satisfactorily with those in our province who have a drinking problem it is going to take a lot more money than is currently being allotted to the Alcoholism Commission of Saskatchewan. Mr. Speaker, I am pleased that the Minister of Public Health (Mr. Smishek) has increased the estimates to the Commission for the 1973-74 year by $185,160. This, Mr. Speaker, is a 21 per cent increase in the budget. I would strongly urge the Minister to continue this rate of increase in budget allotment annually until the figure of 19 per cent or so of annual liquor profits is achieved. If the 10 per cent figure could be applied to the present estimated revenues from liquor profits in our province, some $3.8 million would now be budgeted for the Alcoholism Commission of Saskatchewan or any other programs. This would be the ideal budgetary situation and should be readily acceptable to all, since liquor profits are the sixth largest source of revenue to the Provincial Treasury.

However, Mr. Speaker, we must make sure we don't just spend money with being sure that we are getting the most out of our program dollar. I urge the Minister in charge of the Alcoholism Commission to proceed as fast as possible with the selection of a top notch executive director for the Alcoholism

Commission, that position now being vacant for some months. I hope that the new director will be able to re-organize and mobilize his staff so that Saskatchewan will become a leader in alcoholism treatment programs in the North American Continent. I predict that this will be the case within a few years if we get a top notch director and give him the necessary resources to do the job.

Mr. Speaker, if I were to pick one recommendation that in my opinion has the greatest potential in Saskatchewan it would be that the Commission move into a massive community development program based on the Cottage Meeting Program that our Committee observed in Salt Lake City, Utah. This program would necessitate amassing the largest number possible of semi-trained volunteers in every city, town and rural community in Saskatchewan to help identify and help people with a drinking problem. This program uses door to door canvassing, householder mailings and house meetings as a basis for identifying problem drinkers and getting them to face up to their problem. In this way I would hope that every facility presently available in the province be utilized to the fullest until they are just bursting at the seams with constructive rehabilitation, educational and treatment programs. Saskatchewan people are noted for their community spirit and I am positive that this program would be a tremendous success. It would then be up to the Alcoholism Commission to supply all the necessary supporting staff and facilities. It is my opinion that the cottage meeting program will be the most beneficial direction for the Commission to pursue.

Another recommendation that our Government must consider as top priority is the treatment program for our native population. We were quite surprised when we visited the Meadow Lake Rehabilitation Centre to hear that on some of the reservations, up to 80 per cent of the natives had a drinking problem. No doubt the drinking problem on reservations is directly related to the welfare problem, but that is not necessarily the case with the younger Indian population. The seriousness of the problem can be clearly seen when one examines a few population statistics. The 1971 census showed Saskatchewan's population to be 926,242. The Indian population by mother tongue in that same year was 26,020. In 1971 that same year, the Indian population then was around 4 per cent of the provincial total, yet there are probably 10,000 or more who have serious drinking problems. That figure of 10,000 represents 50 per cent of the total known alcoholics in the province. This situation begs the attention of all of us, the Government, the Alcoholism Commission, the Federation of Saskatchewan Indians and the Metis Society.

I want to take a minute to congratulate the Federation of Saskatchewan Indians and Native Alcoholism Committee for all their sincere efforts to date in dealing with the problems of alcohol as they relate to their own people. Mr. Speaker, they have the enthusiasm, the interest, concern and ability to initiate their own programs. I am sure they will continue to do good work. We must be ready to give them a fairly free rein in these matters and trust that they will act in a responsible manner. The Meadow Lake and Prince Albert Native Alcoholism Centres have shown beyond a doubt that they can take the initiative on their own and produce results.

Mr. Speaker, there is much more that I could say, however, I have tried to pinpoint the few issues that I felt were important.

Before closing, I should like to place on the record a commentary on the report which no one has yet brought to the attention of the Members to date, from the Church in Society Committee of the United Church of Canada Saskatchewan Conference, dated April 5, 1973.

> The Hon. A. E. Blakeney, Premier of Saskatchewan, Regina. Mr. Premier:
>
> Re: Liquor Regulations in Saskatchewan.
>
> Members of the United Church of Canada in Saskatchewan have been most interested in studying the Final Report on the Special Committee on the Review of Liquor Regulations in Saskatchewan.
>
> As our Committee has studied the Final Report we have been impressed with the thorough instructive and valid appraisal of the use and abuse of alcohol which it contains.
>
> We commend the members of the Special Committee. The Church in Society Committee would like to give particular commendation to a number of the recommendations of the Special Committee. We endorse all of the recommendations in Chapter 3, Prevention, Education and Research. Our Committee spent some considerable time studying Recommendation 3, regarding a social health pricing policy. It was our conclusion that when this recommendation is combined with Recommendation 13, regarding a lower priced low-alcohol content line of beverages, the total concept of social health pricing policy is valid. We endorse all of the recommendations in Chapter 4, Treatment and Rehabilitation. We particularly commend to the Government Recommendation 3. We feel it is important that the Government allocate a greater portion of its profits from alcohol taxation to treatment and rehabilitation programs.
>
> We endorse all of the recommendations of Chapter 5, Drinking Driver Program. From Chapter 6 which is the most controversial The Liquor Act and The Liquor Licensing Act, we endorse Recommendation 9 regarding the return of empty bottles. With respect to Recommendation 35 our Committee recommends that consumption of beverage alcohol be permitted at an overnight campsite for which a rental fee has been paid.

I can see their thinking there that there is more control over campsites when you go in there and pay than just stopping along side the road any old place. It goes on.

> Our Committee has considered the other recommendations of Chapter 6 and we find ourselves strongly disagreeing with a number of them. It seems to us that on the one hand the Committee is recommending a more limited accessibility through the social health pricing policy and on the other hand is recommending wider accessibility through recommendations in Chapter 6.

I may add that that is exactly what the Report does, we know it. It is contradictory at times. It continues.

> In particular we reject Recommendation 7 regarding the sale of beer and wine in grocery stores.

Although we only recommended a pilot project on low alcohol content beer and wine. It went on to say.

> We reject Recommendation 23 regarding sale and consumption of beer at sports events. We reject Recommendation 34 regarding the transportation and consumption of beverage alcohol in vehicles. We reject Recommendation 36 regarding the consumption of alcohol in private offices and we reject Recommendation 42 regarding community event licence.
>
> As our Committee read the Report it seemed clear that the Special Committee was able to establish a relationship between accessibility and rate of alcoholism. When such a relationship is demonstrated it seems inconsistent for the Committee to in fact be recommending a greater accessibility. We urge the abandonment of the above recommendations.
>
> We would also suggest to the Government that action be delayed in Recommendation 44, Chapter 6, regarding the licensing and replacement of obsolete hotels until there has been greater study and reaction from the public.
>
> Finally, we would commend the Government for the manner in which it has proceeded with respect to liquor regulations. Where the vital interests of the people are involved we feel it is crucial that there be time and opportunity for public debate before legislation is proceeded with.
>
> Yours truly, Reverend James H. Hillsen, Interim Chairman, Church In Society Committee, Box 177 Viscount, Saskatchewan.

In conclusion, Mr. Speaker, I would endorse the comments of the Hon. Member for Moosomin (Mr. Gardner) who spoke the last time the debate was one. He said that the Committee worked well as a team and I would say that our Committee was an excellent example of good team work by Liberals and New Democrats to get on with a serious job. We spent a good deal of time studying the problems related to alcoholism; we travelled, we observed, we questioned and we learned. Mr. Speaker, this Report is far-reaching, is well researched and totally comprehensive. I commend it to the attention of this Assembly, the public of Saskatchewan and in particular to the Ministers in charge of the Alcoholism Commission, the Liquor Board and the Liquor Licensing Committee for their close scrutiny. Mr. Speaker, I am glad we have a chance to debate this Report and to receive it in this House.

Some Hon. Members: — Hear, hear!

Mr. A. Oliver: — (Shaunavon) Mr. Speaker, I should like to make a few comments on the Report and its ramifications. Being a teetotaller, and there are a number of us on this side in fact we have them on the Treasury Benches.

Mr. McPherson: **—** What about on this side?

Mr. Oliver: — Yes, I guess you have one over there. In fact, the Member for Saskatoon in front of me I believe is a total abstainer too but I don't know whether it is the lack of alcohol that has caused the sparsity of hair on his head or worry, I am not sure which.

My father was instrumental in forming my inhibition, if you want to call it that, against alcoholism, although he was not a complete abstainer. He had a small bottle of brandy around the house for medicinal purposes, even to this day in fact. He has had a heart scare, if you want to put it that way and he was a little worried about his heart and he went to a doctor and he told the doctor that he always has this little bit of brandy around the house just in case. And every time he feels the tightness in his chest he takes a small shot and it sort of relaxes him. The doctor discussed this with my mother and he said, "Well actually it has a psychological effect and if he believes that let him go ahead."

I think that the liberalization of alcohol in the province, in fact in North America, has gone just about as far as it can, or as far as I should like to see it anyways. I wouldn't like to see it go into grocery stores. I think we have enough outlets as it is.

About advertising of alcoholic beverages, and I understand that we are just talking about beer and wine, the Member for Rosetown (Mr. Loken) was talking about it being on cable television in the southeastern part of the province, and his argument was that it should be fair pool to put it across the province, in the papers, radio and television.

I think my concern is that advertising is going to lead to more consumption. This is the name of the game in advertising. You advertise to improve your sales and I think irrespective of what people say, that it won't have any effect on consumption, I think it does. I think the type of high pressure advertising we have today is hitting at the 'now generation', and the swinger-type. The tobacco advertisements and the liquor advertisements, we see now are all tuned to the younger generation. They are not worried about these old people sitting in a rocking chair, they are more concerned about the young fellow or the young couple living it up more or less – and you can't live it up without a shot of their brand of liquor.

The Member for Milestone (Mr. MacDonald) was discussing the problem of live entertainment in rural areas. I agree with him that this is a real problem in some of our smaller hotels. They just cannot afford the live entertainment and yet most of the drinking public demand this type of thing in the hotels.

The matter of control, I think is a serious one and it is going to cost more to control any more liberalization. Alcoholic beverages will be found in places where they shouldn't be, like cars, and other areas where the law now states that it should not be. It also puts a tremendous hardship on the poor people when they find themselves in our courts. Usually when they get to the point of being an alcoholic they have problems with finances, home life and so forth, and then to have the judge put the lid on him in court for a liquor offence, it really creates a hardship. Now maybe they deserve this type of punishment but it is part of the whole picture.

I believe the .08 per cent alcohol blood count should be lowered to .05 per cent for safety sake on our highways. I think the whole problem of control is a vicious circle. If you increase consumption, you have to increase control. It will cost the taxpayer more to increase control and if you tightened up on control to the point where you are going to slow down consumption, all you do is drive that under ground and you will have more bootlegging and so forth.

I think that drinking in cars is a little absurd as far as I am concerned. In regard to education, Mr. Speaker, it is very easy to say, we have to have more education. I don't think that education, per se is the answer. I think that you have to have something behind it. It is fine to say that this should be the responsibility of the schools since the schools are already set up for it. I think this is fine as long as you are talking about the bio-chemical effects on the body. But as far as the more aspects of it, I think this has to be the responsibility of the home.

I can only think back in my own teaching experience, in teaching about the effects of alcohol and tobacco, and just the mere fact that I didn't use either one of them myself, set an example for a number for those young boys who had been smoking, just for kicks, just to be smart. I think all boys do this at one time or another, try out the cigarette behind the barn or whatever. But I think because I did not use it, they seemed to be saying, "Well you know he must have something behind it. He must have something that is right, if indeed, he is saying that it is bad for us and he himself is not using it, then we should think about it." I think they looked at this in making their decision on drinking. Two of the fellows who are now married, often talk about the time I scolded them for smoking out in the school year. I didn't allow them to go on our Scout hike that weekend and that meant more than all the scolding in the world.

I certainly believe that the total responsibility in the field of alcoholism has got to be by an example set by the parents. We can't slough it off. The example we set is going to be the one that is going to affect society.

Some Hon. Members: — Hear, hear!

Mr. J. C. McIsaac: — (Wilkie) Mr. Speaker, I suppose there may be some merit in the suggestion that this Report deals with a subject just about as old as history, the subject of liquor.

I was interested in the remarks of the Hon. Member who just took his seat, the Member for Shaunavon, and the frankness with which he discussed his views in that regard.

I should like to begin, Mr. Speaker, on a few general comments on the Report. I was a member of the Committee and I regret that I wasn't able, for personal and for professional reasons to be with the Committee the last few days when they were finalizing their recommendations. I enjoyed the work of the Committee. I think it was a real illustration of how an Intersessional Committee of the Legislature can work.

I think, perhaps, the fact that liquor is in essence a non-political subject and yet a very controversial kind of

subject, is perhaps on of the reasons why it was such a good and such an effective Committee. There are not very many other topics or subjects that lend themselves in that sense to that. So I think, Mr. Speaker, that that perhaps was the reason why we were able to do the kind of job that we did on this Committee. I think that we gave the subject a pretty exhaustive study. Some comments have been made on both sides of the House as to the travelling and to the touring, and so on, that was a part of the study here.

I support the decision of the Committee wholeheartedly to look at some of the problems, some of the methods of treatment, some of the methods of handling alcohol in other Canadian jurisdictions. And as far as the treatment of it is concerned we did look at a couple of institutions in the United States. I wasn't able to be a part of the Committee that went down to Salt Lake City. I heard someone say just the other day, "What in the world would the Liquor Committee go to Salt Lake City for. They are all Mormons and they don't drink?" The Committee went there for a very good reason from what I can understand from talking to colleagues who were there, a very worthwhile trip in that area.

Mr. Speaker, I have a few more comments with respect to some of the recommendations, some of the general philosophies of the Report. I beg leave, however, at this time to adjourn debate.

Debate adjourned.

SECOND READINGS

Mr. D. G. Steuart (Leader of the Opposition) moved second reading of Bill No. 64 – An Act to amend The Saskatchewan Human Rights Commission Act, 1972.

He said: Mr. Speaker, this Bill, Bill No. 64 is An Act to amend The Saskatchewan Human Rights Commission Act, 1972.

What we are attempting to convince the Legislature to do in this amendment is to set up the Human Rights Commission so that it is independent, as independent as possible, of any government interference, not only in fact but in appearance.

We are suggesting that the powers be taken away from the Lieutenant-Governor-in-Council to appoint members of the Commission and hand this job over to the Chief Justice of Saskatchewan and the president of the University.

If there are some proposed changes made in The University Act, that particular clause would have to be amended. But there is no great problem there. It could be the chairman of the Board of Regents or whatever else results from the changes to The University Act, but what we want here is, again, someone who is independent, independent of the Government.

Then we suggest that the members of the Human Rights Committee themselves be allowed to chose a chairman and a vice-chairman. This follows in line with the philosophy of this amendment and that is to remove the power from the Government, not only to set up this Commission which they have already done, but in fact to go further and select the chairman and the

vice-chairman.

Why do we suggest these changes? Well to begin with if the Human Rights Commission is to properly do its job, first, it must have the absolute confidence of the public that it is, in fact, independent. I am not suggesting that the Commission is not attempting to do a good independent job, but I know that a large percentage of the people in this province are not convinced that any government, NDP or Liberal or any other government, can be that independent, can be that objective when they chose the members, the chairman and the vice-chairman of a committee as important as this.

We base this on what has already happened with the Human Rights Commission. And we base it also on the fact that one of the greatest transgressors of human rights are governments, any governments, but especially this Government.

And so here we have the most powerful body in the province, the body that under any circumstances, under any government of any philosophy, tends to take away or move in on the rights of the individual, and we have them setting up a committee to be the judge of their actions, to be the defender of human rights.

This Government, since its inception has consistently eroded the individual and human rights of the people of this province. They are again doing it in this Session. We have watched them take away rights from the businessman; we have watched them take away rights from hospital boards; we have watched them take away the rights of local government; we are watching them right now take away the rights of the people that run our university; our teachers, our school trustees; our farmers; every form of local government and of individuals. There have been individuals dismissed from this Government with no recourse, no explanation. We are watching people through the Land Bank actually losing their farms, again, with no recourse.

Here we have a Human Rights Commission that is directing its attention to some serious things, but have yet to move in on the greatest transgressor of human rights, the Province of Saskatchewan's NDP Government. And why don't they move in on the Government? Because they are the creature of the Government.

The Attorney General jumps up and says, "Do you dare to criticize the judge?" And I say, yes, I dare to criticize the judge or anyone else that serves as chairman of the Commission.

When the judge takes on the job of being the chairman of the Human Rights Commission, then I say that the judge had better make up his mind where he is. If he is a judge let him stay on the bench, let him conduct himself in a manner that is above reproach. If a judge decides to come down into the political area and take on a job appointed and handed to him by the NDP Government, an individual who by background and actions, and continued actions, is a strong supporter and active member of the NDP Government, then I say that individual is open to criticism.

I just have to point to an issue of the Prince Albert Daily Herald of a few weeks ago. "Human Rights Commission is Fighting Discrimination." And then it goes on to tell how Judge Tillie Taylor was holding a series of meetings with the SNDW,

Saskatchewan New Democratic Women's Association.

I think the indiscretion of this individual, in launching a series of meetings with a wing of the political party of the government who appointed her to this position, is almost beyond belief. It, in fact, tells me and tells any clear thinking individual in this province that that woman automatically disqualifies herself for this position.

The Members opposite can snicker and laugh, but they sit there, those back benchers, while we have watched those people in the front benches systematically rob the people of this province of their independence and of their human rights, then they support a Commission that has not had the intestinal fortitude to once tackle the Government on any serious issue.

The Human Rights Commission is a farce. It is an absolute farce! All it is is window dressing so that the people opposite, the NDP, can run around the province and say, look how humanitarian we are, look what wonderful people we are, we have a Human Rights Commission.

They haven't got a Human Rights Commission, they have a Commission that is an apology, that runs around apologizing, runs around and puts up a smoke screen, in front of the actions of the Government opposite.

I say this Commission has been a failure; the chairman has been a failure; they are a disgrace to the name and they should immediately resign. The Members opposite if they have any character, if they have any degree of responsibility for the jobs that they were given when they were elected they should wipe the slate clean of this so-called Human Rights Commission, start over again and pick an independent body and leave them some independence so that they will be able to get down to the real nuts and bolts of protecting the human rights and the independence of the people of this province. Against whom? Against the Attorney General, against the Minister of Agriculture, against Premier Blakeney, against the NDP Government, that has set out to take more rights away from the people of this province than any other government in the history of province, or the history of this nation.

Some Hon. Members: — Hear, hear!

Mr. Steuart: — I say this Committee is a farce. I say that chairman is a farce and I will continue to attack her as long as she runs around playing politics in this province and pretending she is independent, hiding behind that so-called judgeship, hiding behind her position, then I say that she should be attacked and will be attacked.

I hope the Members opposite have the character, which I doubt they have, to support this amendment.

Some Hon. Members: — Hear, hear!

Mr. Steuart: — Mr. Speaker, I move that Bill 64 be now read a second time.

Hon. R. Romanow: — (Attorney General) Mr. Speaker, I frankly never would have really believed this type of a speech we have heard today.

Mr. Steuart: — You should have.

Mr. Romanow: — Yes, I should have been. I should have expected anything. I am frankly very disappointed in the Member from Albert Park (Mr. MacLeod) loudly applauding the Leader of the Opposition, in what I think is probably one of the unfairest speeches and personal attacks that I have ever heard, next to the attack on the Mendel family and Intercontinental Packers in this Legislature.

Mr. Steuart: — Everyone is sacred!

Mr. Romanow: — No, no. That's not true, everybody is not sacred and you are free to criticize the chairman of the Human Rights Commission. You are free to criticize anybody you want and undoubtedly you will. But I can tell you this, Mr. Speaker, that I acted as critic of the Department of the Attorney General when I was in Opposition for four years. I won't get into the specific area because I don't believe in the type of politics indulged in by the Leader of the Opposition. I don't During the four years that I was critic of the Department of the Attorney General, there were a number of requests to me, at least on two or three occasions where I could have made a personal attack on a judge of the Magistrate's Court for taking part in a government appointed function by that administration. I can think of cases where the Liberal Government, at the request of the Department of the Attorney General, appointed a magistrate, for example, to arbitrate cases under the notorious Bill 2. Everybody in the House knows how I feel about Bill 2 and how the NDP Opposition felt about Bill 2. But I defy any Member to get up in this House and to say that either myself or any Member of the NDP made a personal attack at the judge who was asked by the Attorney General, and appointed by the Liberal Cabinet of the day, to fulfil the law as it was, not set by him, but set by this Legislature. I defy anyone to get up and to say that we launched a personal attack to say that that judge was a Liberal, or that the judge was a farce, or that that judge was all of the other words that the Leader of the Opposition used describing this judge.

I think it can come to two or three specific cases. We never ever launched our attack on a personal basis. We always opposed Bill 2 – still do oppose Bill 2. The Leader of the Opposition and Liberals opposite can oppose the Human Rights Commission. They can say that it isn't going far enough, or that the Act is not good, but in my judgment to do the type of thing that the Leader of the Opposition has done to Judge Tillie Taylor he has, I think, sunk to the absolute lowest depths of political debate that this Assembly has heard in a long time.

Some Hon. Members: — Hear, hear!

Mr. Romanow: — I want to just say, Judge Tillie Taylor, everybody knows by common knowledge, is the wife of George Taylor. George Taylor is an NDP person who has been a candidate on a number of occasions. All of his life he has been an NDP. All of his

life he has advocated that cause. I honestly can say that I don't know. But I wan to tell you, Mr. Speaker, that this criticism on Judge Taylor this morning, comes from a man who as the Deputy Premier of the Government, who had it within his power to convince his colleagues to dismiss that judge from her magisterial duties during the fourteen year period that she served as a magistrate and has served as a magistrate in the Province of Saskatchewan. She served from 1964 to '71 and Darryl Heald who was then the former Attorney General took not one step to terminate or to discipline her appointment because of even the slightest suggestion of political bias in the carrying out of her legal duties, in carrying out her judicial function. What I should like to know, all of a sudden the Leader of the Opposition launches a personal attack on an appointment on the Bench, a person who has served now through two different administrations – the CCF and the Liberal administration and now the NDP administration, and all of a sudden because we have asked her (we could have any other judge for that matter) but she happened to be a past president of the Saskatchewan Association of Human Rights; she has happened to have been involved in human rights all of her life with associations. When I asked for suggestions of the Human Rights Association as to who should serve as the chairman or the judge, she was by no means unanimous choice, but her name came up the most frequently. Because of her involvement, we asked her to fulfil that function under The Human Rights Commission Act as the Liberal Government asked another judge to fulfil his functions under Bill 2. What does the Leader of the Opposition do? He launches this attack.

It is nothing else but a personal attack, Mr. Speaker, and make no mistake about it, because this person has (as I have said) been on the Bench for fourteen years. She has had an outstanding academic record when she went through university. I don't think there has been any complaint about her impartiality on the Bench, not on whatsoever. Not that I know of, and if there be I ask the Leader of the Opposition to get up and to say and if there is one, that he knows of, and he didn't act on, then he must not have been serious, or he has condoned or forgiven it. I dare say there is just no evidence to prove that whatsoever.

And now our legislation, for good or for bad, says that we are going to appoint a judge of the Magistrate's Court to serve and we have asked Judge Taylor. We have canvassed the Human Rights people and the like and her name comes up most frequently and what does the Leader of the Opposition do? He launches this vitriolic and an all-time low attack, not only on Judge Taylor, but on the judiciary of the province of the Dominion of Canada. I'll tell you why it is. The Member from Albert Park says that's not so, but I'll tell you why it is. I'll tell you why it's an attack on the entire judiciary. There is no one in this Dominion of Canada who is not appointed to the Bench in any other way but by Cabinet, whether it is a Provincial Cabinet or a Federal Cabinet, whether it is a Liberal Federal Cabinet appointment or a Conservative Ontario appointment, or an NDP appointment in the Province of Saskatchewan, the Cabinet picks the Bench. Make no mistake about that. The Federal Liberal Cabinet picked (while he was still acting as the Attorney General) the Attorney General of the Liberal Government of the Province of Saskatchewan, Mr. Darryl Heald. Now I defy any Member to get up and to say that there has been anybody on this side who has seized on that person, on that appointment. If there was any man who was partisan in his political views it was Mr. Darryl Heald, as an Attorney General, and to say that

somehow because the Federal Cabinet has appointed him as a judge to say that he can't carry out his judicial functions. Do you mean to tell me that he has abandoned his lifelong principles to the Liberal Party, or his principles of the Liberal philosophy? He wouldn't be a human being if he did. But to say that he can't carry on the functions of the Bench is utter nonsense. To say that Judge Taylor, who has been appointed to act as a judge of the Magistrate's Court, whether she's a Conservative or a Socialist, or a Liberal, can't carry on her judicial functions, is absolute nonsense. The Leader of the Opposition ought to be ashamed.

Some Hon. Members: — Hear, hear!

Mr. Romanow: — This is absolutely ridiculous, Mr. Speaker. I could name scores of Superior Court Judges who have either been Liberals or Conservatives and every one of them involved in political activity. To get up and say that those men can't divorce themselves from their political views and carry on judicial functions, is an absolute attack on the entire judiciary in the Province and the Dominion of Canada and make no mistake about it.

Some Hon. Members: — Hear, hear!

Mr. Romanow: — I am absolutely amazed, Mr. Speaker, at these accusations. I knew that the Leader of the Opposition felt this way because there were little hints of it in the paper and questions in the paper about this but I just didn't think that he would even dare to take this type of an attack.

You know what he said, Mr. Speaker. He says they have a gutless chairman (he didn't use that word 'gutless') but a chairman who hasn't once attacked the Government on any Human Rights violation in any way.

Mr. Steuart: — In a major way.

Mr. Romanow: — Well, I'll say in any way. Because I'll tell you why 'in any way', Mr. Speaker, and I take the blame for this 100 per cent. The Act does not apply to the Crown; she can't at law attack the departments or agencies of government because we have overlooked it in the Bill and . . .

Mr. MacLeod: — Oh! I can't see that.

Mr. Romanow: — Yes we did. We overlooked it and we announced in the Speech from the Throne that there would be a further amendment to Human Rights Legislation in the Speech from the Throne, before this debate came up, before you even gave Notice of Motion on this Bill, because it was an oversight and I want to tell you it was insisted by Judge Taylor herself that we include the Crown and we are going to include the Crown. He ought to know that.

Mr. MacLeod: — How?

Mr. Romanow: — If he doesn't know that, well he's a lawmaker and all he has to do is look at The Human Rights Commission Act.

If he has any doubts about it he has two lawyers sitting behind him. He can get up and say that the Government has been trying to protect itself by not having the Crown apply. All right, I accept that criticism and we are guilty and we are nailed against the wall on it. But to say that Judge Taylor is biased because she isn't bringing this action against the Government is an absolute utter misrepresentation of the facts and an attack on Judge Taylor.

Now he knows that – and if he doesn't know that then he is coming into this House making totally irresponsible statements as he always does. Why didn't he ask the Member for Albert Park (Mr. MacLeod) about that? Or the Member for Lumsden, the Attorney General critic (Mr. Lane)?

Now, Mr. Speaker, how in the world would the Member for Albert Park know that, he says. How would they know that? Well, Mr. Speaker, I don't know how it is that the Liberal Opposition for some reason or other doesn't know.

The Minister of Agriculture (Mr. Messer) brings in a bill called The Natural Products Marketing Act and I see by the newspapers that Liberal Opposition says, "they don't know what the Bill says". They voted for it last year. They didn't understand they were voting for last year.

Mr. Steuart: — He lied to us.

Mr. Romanow: — The Leader of the Opposition doesn't believe in reading the legislation that he is asked to pass judgment on. The Member for Albert Park would have us believe that he is too busy to not to be able to sit down to look at the legislation to see where it is deficient or not deficient. What the Leader of the Opposition is trying to say is that somehow it has got to be totally what the Minister tells him (and I agree he has got to be as honest as he can in representing the Bill) and nothing else.

Now, Mr. Speaker, I say again to the Leader of the Opposition, to you Sir and to all the MLAs, if there is an oversight, if it was negligence, if it was just pure Machiavellian political design by a devious Attorney General to protect the Government against the Land Bank, that the Crown wasn't included in the Bill, all of which is fair comment, I accept, but to say that Judge Taylor shows bias because she hasn't acted against the Government, because that provision doesn't allow her to do so in the Act, I say is cheap, cheap political attack on the entire judiciary. And I say this, the Leader of the Opposition is a politician, a consummate politician. He, I think, looks at everything politically. But I must say I am very disturbed at the Member from Albert Park's attitude in this Matter. And I say this very sincerely and very personally. I know him to be a man from the Bar. I know him as a man who has varying opinions on Magistrates, but I wouldn't expect that he would be a party to this type of an attack.

Mr. Speaker, this is indeed a very sad a very low day for democracy and for the judiciary as a result of the Leader of the Opposition's attack on Judge Taylor.

Mr. Speaker, I just want to say a word or two about this business of speaking to the NDP. I want to make it absolutely

clear Judge Taylor (as I have said in Question Period) when it was asked of me, I repeat again, has said and I repeat again, anybody could ask her to talk about Human Rights Legislation. Has the Leader of the Opposition ever asked her to address the Liberal women? Has the Liberal Association ever asked her to address the Liberal woman? Why won't they? Why do they criticize her because the NDP has asked her in an open meeting, not a closed NDP meeting but simply sponsored by the NDP? Well, the Member for Milestone (Mr. MacDonald) laughs. I don't know, I just don't know how you can communicate rationally to irrational people. I just don't know, Mr. Speaker. How does any sense or any logic in this Legislature. I'm trying to tell them that the purpose of the Human Rights Commission is to get as publicized as widely as possible, everywhere possible, what The Human Rights Act is all about and the Bill of Rights is all about and the Commission is all about. That means speaking to the Conservatives. That means speaking to the Liberals. That means speaking to the NDP and that means speaking to the Boards of Trade, that means speaking to Chambers of Commerce. Why not? They are composed of human beings those organizations and they have rights as well and I fail to understand, Mr. Speaker, how the Leader of the Opposition, because of his own party's negligence, or wilful decision not to ask Judge Taylor, how by virtue of their non-action they are condemning her because she responds to another political party to explain to them the activities of the Human Rights Commission.

I repeat again, Mr. Speaker, the Commission stands ready to speak to anybody with respect to this matter.

Now, Mr. Speaker, I want to make the other additional comment with respect to this business of transgressors. Transgressors of human rights are, according to the Leader of the Opposition, governments. I agree with him. Governments are, by their very nature, transgressors. That's why we set up the Human Rights Commission with the amendments to get them to apply to the Crown. Why we set up the Ombudsman. It may not be perfect. Maybe the powers have been curtailed a little too much. It's a matter of debate. But that's why this Government has done that, Mr. Speaker. We did it. We, the NDP not them, not the Liberals. They were transgressors of human rights too, Mr. Speaker, but they didn't set up a Human Rights Commission or an Ombudsman. Oh no! They're laughing.

Mr. Steuart: — You would too.

Mr. Romanow: — They were the biggest transgressors of human rights the Province of Saskatchewan has ever known.

In 1964 to 1971, Mr. Speaker, I don't thin that there was as vicious anti-human rights action, not only legislation, but conduct, than by the Liberal Government opposite. I'm not going to belabor at length this business of Bill 2. Now if that isn't a violation of human rights, even rejected a few days ago by the Liberals opposite, I don't know what is a violation of human rights. It could imprison a working man (a working man, Mr. Speaker) and charge him $1,000 a day because he decides and denies the only thing he can sell – his labor. Something that the United Nations Declaration of Human Rights has been fighting for, something that the International Labor Organization (ILO) has been supporting at the Geneva Conference; something that the Canadian government has supported, and the only Canadian

government to implement that, the Saskatchewan government, if that isn't a denial of human rights, I don't know what is.

They talk about transgressors. They are experts on transgression of human rights. These books are full of firings by the former government opposite on political grounds. He tries to tell us about us acting without reason or without cause. Full of them. SGIO agents – and you know yourself tens of them being fired for political reasons – the Member for Meadow Lake (Mr. Coupland) knows that full well. If they want I can bring in the documentary proof on that.

Mr. Steuart: — What year?

Mr. Romanow: — What year! From '64 to `71, servants. Mr. Speaker, I recall a case called "The Baskin Case".

Mr. Steuart: — Oh! That was a good one.

Mr. Romanow: — Oh, that was a good one the Leader of the Opposition says. Well he can take credit for it.

Mr. Steuart: — I do.

Mr. Romanow: — Okay! He does. Here is a case, Mr. Speaker, in 1964 where a man on leave, properly obtained from SPC, I'm not sure whether it was 'with' or 'without' pay, but it was valid whatever it was to him, in the circumstances, sees fit to campaign for the New Democratic Party, or the CCF. Fired. Right from the Premier's office, Mr. Speaker, this order came. Why? Because he was exercising the most fundamental freedom of all in our society, the right to politic in democracy. That's what he was exercising.

Some Hon. Members: — Hear, hear!

Mr. Romanow: — The Leader of the Opposition ought to be ashamed of that position. Talk about transgressors.

Mr. Speaker, I acknowledge that governments are transgressors. I acknowledge that probably this Government has alienated the rights of people too. It is inevitable and we may have, in fact, done this in a way which is contrary to human rights, but please don't let the Leader of the Opposition get up and say that the transgressors of human rights is this Government. Because I say in the 20 months that we have been in power, Mr. Speaker, we have done more to protect civil rights and civil liberties than any other Government, certainly in the last 15 years. Maybe not as much as the 1944 CCF Government that brought in the Bill of Rights and brought in all the Fair Accommodation and Fair Employment practices but I can tell you that their record is nothing compared to what we have done in 19 to 20 months in respect to protection of human rights.

Mr. Speaker, the position by the Leader of the Opposition surprises me with respect to his attack on Judge Taylor. That, I say sincerely and non-politically. Well I know every time these boys snicker and laugh I shouldn't be surprised but I honestly felt that he wouldn't do it. I didn't think he would

take the judiciary to the floor of this House and make it a full scale political debate. Because if those are the rules of the game and if the Member from Albert Park (Mr. MacLeod) and the Member for Milestone (Mr. MacDonald) are going to continue this type of thing, then fine, that will be the rules of the game.

Mr. Weatherald: — On a Point of Order, I don't believe the Member for Albert Park has ever entered this debate to my knowledge whatsoever, nor the Member from Milestone and for the Attorney General to get up and start throwing names around and ascribing things that they have said is wrong, and he should withdraw his remarks to people who have not entered the debate.

Mr. Speaker: — I realize the Hon. Members have not taken part in the debate. It would make it much easier for the Speaker if Members waited until they did rise before they took part. Comments when they come across or nodding of the head from one side to the other does precipitate debate so I think all Members agree. Hon. Members still have a right to come back and make a reply.

Mr. Romanow: — Mr. Speaker, I thought I said and if I didn't I'll make it clear, if the Member from Albert Park and the Member from Milestone are going to be the judiciary, fair pool. That's what the ground rules are going to be.

Mr. Steuart: — I didn't say.

Mr. Romanow: — Yes, you did. Yes you absolutely did by the comments you made on it. If those are the ground rules, I would invite the Member from Albert Park to look very carefully before he opens up on that ground rule because I think some of us on this side would love to have that as a debating rule and we would love to see exactly how everybody fares on this operation. If you think that our political interests in this debate override the larger interests of justice and order as we know it and integrity and independence, impartiality of the Bench, if you think those override then I invite those Members, who if they follow the Leader of the Opposition, I invite them not to follow in the footsteps of the Leader of the Opposition. Because his footsteps in this regard this morning are, as I have said, very, very degrading to this Assembly and, in my judgment, the democratic process.

Mr. Speaker, there are literally many reasons why this amendment is bad, over and above anything else that I have said. Certainly in even the tenor of the remarks of the Leader of the Opposition, one could have considered the idea perhaps of the appointment of a chairman or other members by the President of the University or of the Chief Justice of the Court of Appeal, if they hadn't been delivered in the tenor of the remarks of the Leader of the Opposition. You can't now, how can we understand those circumstances. You just absolutely can't. There are other reasons, over and above everything I have said, Mr. Speaker.

This Bill is deficient for these reasons: one, it ignores the fact that Section 3, subsection 2 of the Human Rights Commission makes provision for the commission officers to hold a term for a minimum of five years and they are holding the office

at ‘pleasure’. In other words, we say or I say that those appointees have absolute independence because they were appointed at pleasure. They can only be removed for cause and there is sufficient protection there for independence which is a very important aspect of a judicial or semi-judicial body.

Secondly, if the Leader of the Opposition amendment was accepted, it implies unanimity as to the choice of the people. This method would be very unworkable, Mr. Speaker if the appointments to the Human Rights Commission could not be agreed on by the President of the University of the Chief Justice of the Court of Appeal.

Thirdly, appointments by Cabinet are not uncommon in other related areas. I don’t know of any other jurisdiction in Canada that appoints a Human Rights Commission in a method as suggested by the Leader of the Opposition. All judges, I repeat, all judges who have surely as great, if not greater, duties and responsibilities as members of the Human Rights Commission, are appointed by political bodies, the Cabinets. The system implies that they can rise above their political bias once they are appointed to judicial or semi-judicial functions and act according to the evidence and according to the law. I think that system has worked well and I, for one, as Attorney General, am going to support it. Therefore, I deny the suggestions that by a person being appointed by Cabinet as Judge Taylor has been, or any others, that somehow they are not able to carry on their judicial functions properly.

Fourthly, if the Chief Justice becomes involved in appointing members of the Commission, it is very likely, Mr. Speaker, that he would disqualify himself from any hearings with respect to applications for prerogative writs that may lie against the Human Rights Commission, certiorari because of lack of jurisdiction or certiorari because of bias, which also is entitled to lie.

Fifthly, judges including the Chief Justice I am sure, would be very hesitant, probably would refuse to be involved in such appointments. The President of the University could be as well, because making these appointments are subject to public criticism. That’s the public criticism that we as a Cabinet should get, not that Judge Taylor should get. Her only sin was to accept the appointment that we made. If it was a bad appointment we should have been criticized, not Judge Taylor. And I don’t see that the President or the Chief Justice of the Court of Appeal would accept this.

Mr. Speaker, I want to conclude by saying that the matter of the proposed vacancy in this Bill is also very unworkable because it contemplates unanimity and as we all know this is not possible. Over and above everything else that I have said, Mr. Speaker, I think this Bill is further deficient because on one other very important aspect of it and for all the mud-slinging that this debate includes, at least the one advantage of it is the Leader of the Opposition has the right in society because we made the appointment and he has the right to get up and criticize us. He did criticize us, I suppose he did by implication. He wouldn’t have that right if the appointment was made by the Chief of Justice or the President of the University because we wouldn’t be held accountable. It would not be our appointment, it would not be the Government’s appointment and there would be no reason why we should come to the Legislature

and defend Judge Taylor's appointment or anybody else's appointment if we hadn't made it. Accountability to this House, the Cabinet accounts to this House. If the Cabinet doesn't appoint, we aren't accountable. This House doesn't get a chance and if this House doesn't get a chance then there is no attack on the Commission. Maybe for that reason alone I would have supported it, if I had known this morning what was going to be the upshot of the debate by the Leader of the Opposition.

I close, Mr. Speaker, by simply saying that I am very saddened by the remarks of the Leader of the Opposition, I wish that he would withdraw them. I wish he would show his manliness and his magnanimity by withdrawing the remarks against Judge Taylor. Also to say that he wants the Human Rights Commission to work, he doesn't want to undermine it before we make some amendments to improve it, that he does believe in the way the judiciary has been working in Canada, that he has confidence in the need for Human Rights legislation. I hope he does it but I'm not optimistic that he will, not now, because I really don't think that he believes in the Human Rights Commission. He voted against the Ombudsman Bill, I believe he voted against the Human Rights Commission Bill when it was introduced, he opposes these concepts. It is only unfortunate that he uses individuals to carry the brunt of his attack on these very worthwhile principles. Mr. Speaker, I beg leave to adjourn the debate.

Debate adjourned.

Mr. D. G. Steuart (Leader of the Opposition) moved second reading of Bill No. 65 – An Act to amend The Motor Dealers Act, 1966.

He said: Mr. Speaker, before I move Bill No. 65 for second reading, I just want to point out that again it is similar to the last Bill. This amendment we are suggesting is in line with the philosophy of the five ors six other Bills that we have introduced into this House in this Session. That is, it is in line with the philosophy to return more rights, more power to the individual. In this particular case, The Motor Dealers Act was one that we put on the books when we were the Government. It works this way. If the applicant to become a motor dealer is turned down, his application is considered by a civil servant, usually of the Attorney General's Department. At least it has been, I guess now it may be in the Consumer Affairs Department. But regardless of who the individual civil servant is, he has been given, and I don't think this is wrong, it's unavoidable, he's been given a great deal of power, very wide powers. Now what we are suggesting in this Bill is that if someone makes an application and he is turned down, he can now appeal to the courts. I want to point out that when we were discussing some other Bills earlier in this Session, the Premier stood up and pointed to this particular Act, The Motor Dealers Act, and said that when we were the Government we denied people access to the courts and in fact that we didn't even give them access to the Cabinet, and he said, in that particular Bill put on the books by the Liberals they only have access to a civil servant and there is no appeal. The Attorney General talks about ignorance of the law, the Premier at that time was either ignorant of the law or he was deliberately attempting to misinform others, because the Act, in fact, that we passed always gave the appellant, the individual who applied for a licence to be a motor dealer, if turned down or licence cancelled, the right to appeal to the courts. But it didn't require and it

still doesn't require the Registrar or the civil servant who had the right and the very wide powers to turn down applicants for licences to be motor dealers, or to cancel existing licences for motor dealers, it didn't require that civil servant to give them any reason. He just cancelled it and that was all. So if they decided to go to court they had to attempt to ascertain or imagine why their licence had been cancelled or why their licence had been refused.

So all this Bill does is to require where the Registrar refuses to grant a licence to an applicant under Section 11 or suspends or cancels a licence under Section 15, the Registrar shall notify the applicant or the licensee, as the case requires, in writing of his decisions and the reasons therefore. We feel quite strongly that this will in fact give the individual who either applies or is turned down or has his licence cancelled, a chance to know what he is accused of, why his application was turned down so that if he decides to go to court to appeal he has this information at his finger tips. He knows why he is accused, he knows why his licence was cancelled and he is in a much better position or, his lawyer is, to argue his case and present some kind of a solid defence.

Now I have had some indication that the Government may support this and I certainly hope they do because as I say it is in line with the other amendments, the other Bills which we presented. Again, we are doing something practical about protecting individual human rights of the people of Saskatchewan. So, Mr. Speaker, I would move second reading of this Bill.

Some Hon. Members: — Hear, hear!

Hon. R. Romanow: — (Attorney General) Mr. Speaker, the Minister of Consumer Affairs who administers this Act is not with us this morning, I beg leave to adjourn the debate.

Debate adjourned.

Mr. Romanow (Attorney General) moved second reading of Bill No. 71 – An Act respecting Residential Tenancies

He said: Mr. Speaker, it gives me a great deal of pleasure to introduce for second reading this morning Bill 71, The Residential Tenancies Act, 1973. It gives me a great deal of pleasure to introduce this Bill for second reading, Mr. Speaker, because in my judgment this Act represents the first major reform in the area of landlord and tenant law, probably in the last 50 years in the Province of Saskatchewan.

The tremendous growth of the cities and towns of this province and the influx of population to them has brought pressures on housing accommodations. I think that is an acknowledged fact. Although many houses have been built in our cities and towns since World War II, the demand for suites and apartment blocks, the erection of what are called town houses, condominium type of housing accommodation, these have all increased tremendously. Along with this also, Mr. Speaker, the complaints have increased in number and variety by landlords against tenants and tenants against landlords. For example, I am advised that in Regina alone there are approximately 200 apartment blocks containing accommodation of various sizes and kinds. The

majority of the apartments in these blocks are now fully occupied by tenants. Mr. Speaker, it is no secret that similar situations exist in almost all the other cities of Canada.

Complaints by landlords against tenants and of tenants against landlords are almost daily experiences in my department and I am sure individual MLAs receive them as well. To meet the perhaps almost impossible situation that arises out of such complaints, several of the provinces of Canada have taken steps by way of new legislation to bring about additional laws governing the relationship between landlords and tenants, specifically as they relate to housing or residential accommodation. Ontario, Manitoba, Alberta, British Columbia and also Nova Scotia have already met the situation by passing specific new laws with respect to the rental of residential premises.

A study of these Acts passed in those other provinces and of the complaints received there and in this province, is a clear indication that the ordinary law respecting landlord and tenant as set out in the old Landlord and Tenant Act is deficient in very many respects, that new legislation is not only desirable but absolutely essential to the proper determination of the rights and remedies, the duties and responsibilities of landlord and tenants and vice versa.

Mr. Speaker, the lawyers of my department have made a very careful study of our Landlord and Tenant Act, they have also very carefully studied the Acts in the other provinces mentioned. A host of representations have been received from a variety of tenant groups and from many landlord associations, apartment owners and the like. Recommendations have been received as late as four or five days ago. In all of these cases I can assure the House that my department officials have studied them for their legal implications and I have considered them from the broader policy aspects.

This Bill that is before you, in my judgment, Mr. Speaker, is a well balanced Act. It does not receive the unanimous support of landlords although the public response appears to be that they can live with it. In fact, I have seen some reports that they, too, feel that it is an improvement. Many tenants think that we should go further with respect to rent review board provisions, collective provisions, bargaining for tenants and the like.

As I have said, Mr. Speaker, not all of these suggestions are encompassed in this Bill. I believe that over the year and a half or so that we have been looking at this legislation we have produced here a compromise bill which is, as I said at the beginning, the first real reform in the Landlord and Tenant Law in over 50 years and in my judgment is a well balanced Act to improve the relationships between landlords and tenants.

I should also say, Mr. Speaker, that some of the representations that we are still receiving will be incorporated in House amendments. I say that to the Members now, lest Members opposite get up and say that we have hastily drafted this Bill. That has not been the case, there have been at least a half dozen drafts of this legislation over the last year that I have seen, as we have tried to re-work it. The House amendments simply are the Government’s agreement to certain suggestions that have been made by apartment owners and tenants since the Bill has been tabled in the House.

Mr. Speaker, instead of working by way of amendments to our present Landlord and Tenant Act as was done in some other provinces we felt that a brand new bill was the best approach, and thus you have this new code called The Residential Tenancies Act of 1973. The purpose of so enacting the Act under its special name is to set up a complete new code of law relating exclusively to residential tenancies and all their aspects, without involving or bringing into play any provisions of the old Landlord and Tenant Act with its deficiencies and problems. I don't think it is necessary for me today to catalogue the numerous types of complaints received. I am sure that Hon. Members, particularly those who come from city ridings will have had ample experience in their own constituencies to know better than I, or as well as I, the catalogue of grievances that exist.

Let me therefore proceed to a consideration of the Bill and to deal in general terms with some of its most fundamental and basic principles. As already mentioned the purpose of the Bill is to establish a new code of law relating to landlord and tenants with respect to residential premises only.

Firstly, the term residential premises is given a specific definition in the Bill. That includes a house or dwelling and the land upon which it is situated, an apartment, a flat, a tenement, or other place that is occupied or may be occupied by an individual as a residence or that part of such place that may be so occupied as a residence. It also includes a site used for a mobile home, whether or not the landlord supplies the mobile home and it also includes furnishings and fixtures. Certain specific premises are exempt from the Act, these exclusions are: buildings rented for commercial purposes with residential premises, quite obviously motels and hotels. Also excluded are clubs or accommodations supplied by the Salvation Army, the YMCA, the YWCA, rooms in a nursing home as may be defined by the Cabinet, also rooms not in a nursing home but which may also be defined in Cabinet to encompass that.

Mr. Speaker, also excluded from the Act are, dwellings or multiple dwellings comprising not more than two residential premises, one of which is occupied by the landlord, and the other is rented to and occupied by a tenant; where a landlord owns and rents a single house to a tenant who is in the actual occupation of it. What we mean here is in the case where the landlady is the owner of the house, she is all by herself, a widow or a single person, she rents the basement out, that is not covered by the provisions of the Act. The Bill covers all residential premises in every city, town, village, hamlet or other area. Cabinet has power to exclude any city, town, village etc. It may well appear that in certain villages or hamlets for example, housing accommodation is not such as to require the Act to apply in which case we could exempt it.

Mr. Speaker, since the Bill is intended to establish a uniform code of law with respect to landlord and tenant relationships all leases or renewals or leases written or oral in force when the Bill becomes law as well as any tenancy agreements entered into after the Bill becomes law will be governed by this Act.

I should like to move into another area, Mr. Speaker, and that is, what is known as interest in land. The Bill will repeal the long existing principle of law that a lease of land or the lease of an apartment or flat or any portion of the

building creates an interest in the land on which the building is situated. In its place the Bill provides that the relationship between a landlord and tenant for residential premises is one of contract only. Under existing law if a tenant wished to protect himself against the landlord mortgaging or disposing of the property the whole or part of which is leased to the tenant, then he would simply register the lease in the Land Titles Office. The abolition of the interest in land idea and substituting therefore the right to use, occupy and enjoy the residential premises is for the protection and benefit of the landlord as well as for the tenant. But although the Bill abolished the principle of a lease creating an interest in land, the tenant is amply protected, Mr. Speaker. In many instances the landlord has mortgaged the property, let's say it is a high-rise, for the purpose of financing the construction of a new apartment building. The mortgage therefore in law becomes a first charge on that property. If perchance the landlord should default in paying the mortgage and the mortgagee forecloses on it and obtains title, then all rights of each tenant in that apartment block would also be foreclosed, whether or not that tenant had lived up to his lease. The mortgagee would be entitled (the new mortgagee) to evict that tenant or tenants, he would be entitled to re-rent the suit to the same tenant at even a higher rent or even on different terms and conditions. The Bill therefore provides that if there is a change of ownership of the property in any way, the new owner must take title subject to all rights of a tenant under an existing lease. In other words we do away with this interest in land that runs with the land. The owner is substituted in the tenancy agreement and he is required to fulfil the obligations of the old landlord, just as if the had entered into those agreements himself. In other words, all the rights and remedies available to the old landlord are transferred to the new landlord and he is bound by the terms of the lease in the same way as if he himself had entered into it and the tenant is also bound similarly. In other words, it is a contract in law. So much for the abolition of interest in land.

There are some other specific changes in this Bill, Mr. Speaker. I should like to enumerate them as follows:

1. The right of a landlord to seize and sell the tenant's goods for default or payment of rent is abolished. This is an important reform. This, Mr. Speaker, relates to a situation where a tenant has refused to pay rent. This, Mr. Speaker, relates to a situation where a tenant has refused to pay rent. The landlord could under present legislation sell the tenant's goods to pick up the arrears of the rent owing to him or the rental value of the property. We think that this belies the principle of contract between landlord and tenant but it gives the landlord some rights in law extra-judicially which no one else has where a debt situation is created. Therefore the right of seizure, the right of distress, so-called, will be abolished.

2. Landlords frequently advertise suites for rent before the apartment building or the suite is ready for actual occupation. They enter into agreements to lease a suite to a tenant to be occupied when the building is ready for occupation. Under the existing law such an agreement does not prevent the landlord from leasing the same suite to another tenant, because under the existing law all that the agreement really is, is an agreement to lease the suite, and he may under the present law lease it out to a new person who comes subsequently onto the scene. The tenant may be, under circumstances, entitled to damages

for breach of contract, that's true, but he cannot enforce his right to the actual possession of the premises. We think this is unfair. This principle of law will be abolished. Once a tenant has signed a tenancy agreement for a suite to be occupied by him at some future date, he will have a binding and enforceable agreement, not only for damages, but for actual possession.

3. It has long been the law of landlords and tenants that a tenant must continue to pay rent even though the rented property can no longer be used for its intended purposes, or is destroyed by fire. Some leases make provision that in such cases the rent will be abated during the period that the premises are incapacitated or not capable of use, but this is not always the situation. Mr. Speaker, this is an unfair result. We have changed this by providing that the doctrine shall apply to all leases or tenancy agreements, namely the doctrine of abatement and termination when the premises are destroyed or when they can't be used for what they were leased.

4. Unless a lease or agreement specifically so states – I might add it seldom does – the tenant's obligations under a lease continue in full force, not withstanding that the landlord is not fulfilling his side of the bargain. According to general law the covenants on the part of the landlord and on the part of the tenant are said to be independent of each other, and the landlord may therefore enforce a breach of a covenant by a tenant even though he himself is guilty of a breach of another covenant. This also patently is almost nonsensical and the Bill provides that all covenants in a lease are inter-dependent, not independent. If a landlord is guilty of a breach he cannot enforce a breach by the tenant.

5. Sometimes a landlord in a lease to a tenant agrees to do certain things in the future, sometimes also during the tenancy the landlord sells the land or the land is foreclosed. The Bill provides that such covenants of doing something in the future will run with the land and therefore are binding upon any successor in title however acquired.

6. Landlords frequently require a tenant to acknowledge in the lease or before the tenant signs the lease and takes actual possession that the property to be rented is in good condition. Or, say in the case where a furnished suite is rented the furnishings are in good condition. The tenant will have no way of knowing this without actual close inspection of the premises. Frequently after he moves in he finds out that they are not in good condition. According to the general law a tenant takes the rented property or furnished suite as he finds it. We think this is unfair. The Bill therefore makes provision prohibiting the taking by the landlord of the acknowledgement therein. That means the acknowledgement that they are all okay before seeing them, if one is taken by the landlord, it is null and void and not binding. If the premises or the furnishings are not in good condition the tenant will have a remedy against the landlord.

Mr. Speaker, I should like to move into another area, and that is the area of statutory conditions. The fact that there is a very strong demand for suites and apartments, in particular, obviously means in the law of supply and demand that the landlord occupies a highly favorable position as to the terms upon which he will rent a suite. Very often in effect he – as Perry Mason says, he holds the pat hand – and dictates the terms upon

which the property can be rented. In many instances no written agreement is entered into, and a dispute frequently arises as to what was actually agreed upon. Where a written document is signed the terms are in some cases not clear. At the same time there is an area where a tenant may cause landlords and other occupants of the same apartment a lot of problems and concern and these may not be covered in the lease. Further, Mr. Speaker, there is a lack of uniformity in leases. While it is not intended to interfere with the right to contract, it is my firm belief that certain terms of leases or tenancy agreements for residential premises should have common provisions applicable to all landlords and tenants and which should not be left to either the landlord or the tenant to determine. Mr. Speaker, if I might just be permitted to finish this part it will be a nice place to break for 12:30, if I might. These are the statutory conditions of the Bill. The Bill provides that certain terms and conditions are super-imposed upon every written or oral lease and they become the terms of this lease. You can't contract out of these statutory conditions. They include such matter as the landlord being required to keep the property in a safe, healthy and good condition, and in good state of repair, including those portions of a building to which a tenant has access, like common hallways and corridors, to supply heat, light, water and elevator etc., and not to interrupt services. Similarly there are obligations on the tenants which I won't go into, they are set out in the Bill quite clearly, the tenant must be absolutely sure that he does not misuse the premises, carry out any nuisance or any activity contrary to the law.

I should like to say briefly before I close this section, to bring to the attention of Members, two aspects of these statutory conditions. Firstly, unless a tenancy agreement specifically provides for an increase in rent – this has to do with the rent increases and the amount of the increase, in other words the lease has got to have in it that there will be an increase and the amount of it. Unless the agreement contains those provisions the right to demand increased rent may be exercised only after the landlord has given written notice of his intention to do so, stating the time when the increase will take effect and giving the tenant the opportunity of accepting or rejecting it. If he rejects the increase he has the right to terminate the lease and get out of it gracefully. I think that is a sound improvement. In some instances, further, Mr. Speaker, the landlord leases the premises for a specific term at a fixed rent for the term payable in monthly instalments, $1,200 for one year, payable $100 a month. But the lease often provides that if the tenant defaults in payment of a month's rent, then all of the future rent will become due and payable forthwith. In my example the term is one year, the rent is $1,200, payable $100 a month. The man pays for six months, and he can't pay on the seventh month, some of the present leases say that all of the balance of the rent becomes due and payable. He is obligated in law to pay the balance of the $600, although he may not be able to use them. This will be prohibited. Future rent becoming payable forthwith will be prohibited by law. Mr. Speaker, by adopting the imposition of statutory conditions upon leases of residential premises, we are extending the principle contained in other acts such as The Agriculture Implements Act, to protect landlords and tenants.

Before I take my chair for 12:30, Mr. Speaker, some people will criticize us as to why we have not had a standard lease in the Bill, the answer is: That the statutory conditions make

up the standard lease, they must be the part of any lease, written or oral, statutorily. The beauty of our proposal is that the landlord and tenant are free on top of the statutory conditions to contract to any other provision that they want to, so long as it doesn't run contrary to the statutory conditions. I think this is also a very sound improvement in the law. Mr. Speaker, I have another five or ten minutes, I am sorry to take so much time, but it is an important Bill, may I call it 12:30.

The Assembly recessed until 2:30 o'clock p.m.

WELCOME TO STUDENTS

Hon. E. I. Wood: — (Swift Current) Mr. Speaker, I should like to take this opportunity to introduce to you and through you to the House 43 students from Grades 11 and 12 from the Gull Lake High School. These students are from the social studies class of Grades 11 and 12 at Gull Lake, they are not the total enrolment in those grades. They are under charge of Mr. Barry Baumgardner, along with teachers Mr. Allan Penner, Mrs. Dubois and Mill Carol Wilson. Their bus drivers are Mr. Neil Brown and Mr. Vic Wiens. We hope that they have a very pleasant day in Regina, a profitable one. I trust that they will enjoy sitting in on our deliberations this afternoon. We hope that they have a very pleasant and safe trip home.

Hon. Members: — Hear, hear!

Mr. Speaker: — I would also like to bring to the attention of the Assembly that there is a group of students in the Speaker's Gallery from Wynyard. Some 70 students accompanied by two teachers, Mrs. Peterson and Mr. Thorpe and Mr. Bill Cooper who came in relief of a third teacher, along with their two bus drivers, Lee Short and Paul Wasylenko.

On behalf of the Members I wish the students an interesting visit to this Assembly and hope that their stay will be fruitful and that they will enjoy their trip to the capital city.

Hon. Members: — Hear, hear!

Mr. D. W. Michayluk: — (Redberry) Mr. Speaker, I wish to express a few words of welcome to the group of students from Wynyard. I have a particular interest in that group of which I am sure, Sir, that you are aware. Some 40 years ago I started teaching in the Round Hills School located some 13 miles south of Wynyard. I had the pleasure of meeting the students during the noon break. I was pleased to have an opportunity to speak to two of the students whose parents I taught from 1933 to 1936. I would welcome the school as a whole and the students of the parents that I had the privilege of teaching in particular. I want the children from the Round Hill District to convey my best wishes to the people of the community and to your parents in particular.

Hon. Members: — Hear, hear!

The Assembly resumed the interrupted debate on Bill No. 71 – An Act Respecting Residential Tenancies.

Mr. Romanow: — Mr. Speaker, I was this morning explaining to the Members of the Legislative Assembly some of the important principles of the new Residential Tenancies Act. I should like to continue this afternoon by describing the law as we propose it with respect to security deposits.

Within recent years many landlords have adopted a policy of requiring a tenant to deposit with the landlord before the tenant is permitted to take possession, an amount equal to a month's rent or a less or greater amount. This so-called security deposit is intended to protect the landlord for damages that might be done by the tenant during his tenancy, and which is discovered usually only after the tenant has left. The deposit is also used to protect the landlord with respect to the last month's rent owning before the tenant quits the premises.

In many cases the tenant has had much difficulty in forcing the landlord to repay the deposit. Unreasonable claims of alleged damage have been raised by landlords on occasion which when properly investigated could not be substantiated. And the tenant either has to abandon it or take the landlord to court something that many people are loath to do.

Under the Bill, Mr. Speaker, security deposits will be limited to $75 or one-half a month's rent whichever is the lesser. But all security deposits will be trust funds in the hands of the landlord. He must either deposit the security deposits in a bank, trust company or credit union in Saskatchewan or invest the money in authorized investments. And he must pay interest to the tenant on the deposit.

The Bill also provides that within ten days after the lease is terminated, the landlord must repay the deposit to the tenant unless he has a claim for damages. If the landlord makes a claim on the deposit then he must within the ten days after the tenancy is terminated serve a notice of the claim upon the tenant setting out particulars of his claims and the amount claimed. If the tenant does not agree the deposit must be paid over to the Provincial Mediation Board and the dispute between them may be determined either by agreed arbitration or by the Provincial Mediation Board or by a judge of the Magistrates Court.

Now, Mr. Speaker, a word on payment of rent in advance. I should say to the Members of the House that here we will be introducing a House amendment. Frequently a landlord requires a tenant to pay several months' rent or a weeks' rent in advance. And he immediately uses the money so received for his own purposes. The Bill will not prohibit the payment of rent in advance but such advance payments will be deemed to be trust funds in the landlord's hands. The Bill further limits the amount of advance rent to be no more than two months. And here the House amendment will be introduced lowering that to one month.

The landlord may take from the trust fund only the amount of future rent as it becomes due and payable. In other words if he takes it in advance he an only deduct it or take it from the trust fund after the month's tenancy has been completed.

I note that the Member for Meadow Lake (Mr. Coupland) has mild reservations about this particular provision. I think it

can work and is not unreasonable.

With respect to remedies, Mr. Speaker. So far I have endeavored to explain the general principle of the Bill with regard to the rights and duties and responsibilities of the landlord and of the tenant. I will now deal briefly with the various remedies provided in the Bill available to the landlord or the tenant.

The first remedy of the landlord in case of default of payment of rent or breach by the tenant of a term of the lease, is of course to terminate the lease. The Bill provides for such termination by setting out a specific time and manner in which the landlord or tenant may terminate a lease. The Bill specifically provides that unless the tenant has voluntarily surrendered possession the landlord may gain possession only after he has obtained a court order to that effect.

We believe that where a dispute arises between a landlord and tenant with regard to any matter in connection with the lease or the residential tenancy that dispute should be settled as soon as possible and as informally as possible.

The Bill provides for several ways in which a dispute may be settled. A dispute may be referred to the Provincial Mediation Board by either party. And the Board will try to mediate and if possible settle the issue. Or the parties may agree that the Board shall arbitrate the dispute. In which event, the award of the Board will be final and binding. Or one of the parties may apply to the judge of the Magistrates Court to determine the dispute or for possession of the premises and that judge is given jurisdiction to make the orders warranted by the evidence before him.

Finally a party dissatisfied with the decision of the judge of the Magistrates Court may appeal to the District Court.

I would submit to all Hon. Members that this procedure very drastically reduces the complexity that is now before the court with respect to District Court applications and the like.

Appearing before magistrates court will I think ensure a speedy trial and by agreement if they go to Provincial Mediation Board, perhaps even speedier. We believe these provisions will make it possible to settle disputes as quickly as possible with the least amount of expense.

With respect of offences and penalties. I have in a general way explained the remedies that will be available to a landlord or a tenant. While most of the disputes may be settled in a manner already outlined, there are some breaches of the Act that must be made subject to fines and penalties on summary conviction.

One specific instance may be given as an example. Trust funds in the hands of the landlord must be preserved and kept separate and apart from his other funds. They must be used only for the purposes of the trust. If a landlord is guilty of a breach of trust he may be prosecuted for that breach of trust. And if convicted he may be fined. I should say that as a matter of protection such prosecution may be only instituted with the consent of the Attorney General.

Now in the matter of the powers and the role of the

Minister of Consumer Affairs. The Government believes that this Bill is really one aspect of consumers' protection legislation.

The rights and remedies provided in the Bill are available to individual landlords and tenants as the case may be. But experience has shown that circumstances may arise for breaches or violations of the Act of such proportions or such numbers that more extensive remedies should be provided that such extensive remedies should be exercised, not by the individual landlord but by the Minister of Consumer Affairs on behalf of the interest of the public generally.

Therefore, this Bill will be assigned to the jurisdiction of the Minister of Consumer Affairs who under the Bill is given powers to investigate matters with respect to residential premises, with respect to possible breaches or violations of the provisions of the Bill.

The Minister of Consumer Affairs is therefore given authority if satisfied to apply to a judge of Court of Queens Bench for relief with respect to any matter.

Finally, Mr. Speaker, there must be several thousands of leases of residential premises in existence at this time in the province. The fact that the Speech from the Throne indicated that this Bill would be presented to the Assembly might have induced some landlords to try to terminate all leases by notice requiring the tenant to give possession of the residential premises before the Bill actually becomes law.

I am sure that every Hon. Member of this Assembly would frown upon such action by any landlord. But I submit that it is not unreasonable to anticipate such action and that it is essential to make ample provisions to avoid the consequences.

The provision in the Bill is to the effect that where a notice of termination has been given by a landlord and the lease has been terminated then unless the tenant has voluntarily given up possession, the landlord may recover possession only under the provisions of this Bill not the existing law.

Also if the landlord gives notice of termination of the lease between the date on which notice was first given to introduce this Bill and the date the Bill becomes law, that notice of termination is null and void and of no effect unless the tenant has voluntarily given up possession of the premises or unless the termination is followed pursuant to this Bill.

Since one of the purposes of this Bill is to bring all outstanding leases in force within the provisions of the Bill, such provisions are essential to the proper administration of the Act. The presence of these provisions is likely to discourage a wholesale attempt to terminate leases of residential premises while this Bill is still being considered by the Assembly.

Mr. Speaker, I do not profess to have dealt with all the provisions of this Bill. I have however, tried to explain the most important principles of it and their effects. I have indicated to the House that there will be House amendments, many of which will incorporate the submissions made to us by landlords and organizations and one or two made to us by tenant

associations. None of these amendments change the principle of this Bill.

I will give the Members of the House as much advance warning as possible of the amendments. They will be given just as soon as the drafting is done.

It is my submission, Sir, that this Bill will introduce into our statute law for the first time, a modern day uniform code governing the rights, duties, responsibilities and remedies respecting landlords and tenants in a modern day society in a modern day Saskatchewan.

Only experience after the Bill has been in fore for awhile will show if we have succeeded at least in the main or at least perhaps in part in accomplishing that objective.

I ask all Members of the House to support us in rewriting and in implementing the first major reform of landlord tenant law in over 50 years in the Province of Saskatchewan. And after experience if we feel that there have to be some amendments to strengthen the Bill then, at least, we will have a good basis and a good framework from which to proceed.

Mr. Speaker, it gives me a great deal of pleasure to move second reading of Bill No. 71, The Residential Tenancies Act, 1973.

Some Hon. Members: — Hear, hear!

Mr. J. G. Lane: — (Lumsden) Mr. Speaker, to quote Mr. Justice Riddell in 1918 in Ontario he said:

> The law of land in countries under the common law of England is a rubbish heap which has been accumulating for hundreds of years and is based upon futile doctrines which no one understands.

I think that no truer statement has ever been made about the question of land law and land tenure in Canada.

But historically land has always been a determinant of status and has been a determinant of position and power in life.

I think that the rules that have developed on land law have survived basically intact since feudal times. And as I say at that time there was no other means of determining a person's status within his community or within his country. At that particular time we had various types of tenures dealing with the position of the individual in society. We had what was called a military tenure whereby the individual got land for military services and what contributions he had made. We had socage tenure which dealt with services to the King and what moneys he was able to contribute to the King or what special services. And there was, of course, major rights given to the church recognizing its place in society.

Historically by and large these rules with modifications have existed since feudal times. We note that the basic premise of the Bill is to take away this determination and reliance on status and place it on a purely contractual basis.

We have heard the Attorney General say that this is a major reform in the field of law. We also heard a couple of years ago the Attorney General say that his Bill at that time was a major reform in the field of law. We note for example a drastic change from the Government opposite when as late as December of 1971 they called for tenant unions and the Attorney General seconded that. This really would have been simply a variation on what we had in the past. I personally favor the idea of placing the relationship between landlord and tenant on a contractual basis. Because in reality that is what it is now.

The Attorney General in 1970 proposed legislation for establishing a rent review board. This of course was designed to protect tenants from unjustifiable rent and by the same token it could very easily have prevented or would have prevented landlords from building new establishments in the Province of Saskatchewan.

The Landlords and Tenants Relations Board was probably an extremely expensive proposal for dealing with disputes between the landlord and tenant and a very summary way is a much better way of doing it. The limitation of security deposits, the abolition of the right to distress have now been carried forward into the Bill presented today by the Attorney General.

But as I say the Attorney General at that particular time when he talked about tenant unions and rent review boards stated that that was a good Bill. And we now find a new Bill that doesn't have these particular provisions being called a major reform. I don't know whether the Attorney General can be excused his hyperbole or not. We have further remarks to make on this Bill and beg leave to adjourn debate.

Debate adjourned.

Mr. Romanow: — (Attorney General) moved second reading of Bill No. 76 – An Act respecting the Liens of Contractors, Wage Earners and Others.

He said: Mr. Speaker, Bill No. 76 is Mechanics' Liens. It ahs a longer more formal title but it is really the Mechanics' Lien Act of 1973.

Mr. Speaker, this Bill before the House is a Bill to amend revise and consolidate the law with respect to The Mechanics' Lien Act, presently enforced in this province as it has been amended from time to time.

Mr. Speaker, the first Mechanics' Lien Act of this province was passed in the year 1907. Since that time it has been amended from time to time, the last of such amendments was passed at the 1971 session of this Assembly.

Some time during and prior to 1963, representations were made to the then Attorney General, the Hon. Robert A. Walker, urging that the Act be reviewed and revised in many respects, as a result of changes of economic and other conditions in the construction industry itself, on the grounds that many provisions in the Act were outdated, others were inadequate, and provisions were lacking to meet new situations arising out of the tremendous increase in construction since World War II.

In 1963, on the recommendation of Mr. Walker, a Royal Commission was appointed in the person of the Hon. Mr. Justice H. F. Thomson, a retired judge of the Court of Queen's Bench, in the Province of Saskatchewan.

The Commissioner was instructed by Mr. Walker to study the whole field of Mechanics' Lien law and to draft a new Act, for consideration by the Government and this Assembly. Without going into details, the Commissioner spent almost two years in the discharge of his duties. Then in May of 1965 he made his report and submitted with it a draft Bill.

Nothing was done with respect to that report of 1965 fro a period of five years. Then in 1970, Bill No. 78, of the 1970 session, was introduced by my predecessor, the Hon. Mr. Heald, to revise, amend and consolidate The Mechanics' Lien Act. It received first reading of this Assembly and didn't go any further. It was dropped from the Order Paper and nothing further was done with respect to the Commission report except to circulate Bill 78 among persons interested in the construction industry.

Mr. Speaker, since I have become Attorney General, a number of representations and recommendations have been made to me that we should reinstitute Mechanics' Lien law, to modernize it and update it to 1973 standards. We have received suggestions, Mr. Heald had received suggestions, and these after careful study are now incorporated in this Bill before you.

What is the principle of the Mechanics' Lien law? The basic principle of all Mechanics' Lien laws – and there is no change in that respect from the present Act – is substantially this: That a person who supplies labor, services or materials in the construction of a building is entitled to a lien upon the land and upon the building erected out of the material supplied and the labor of service performed, even though there is no contractual relationship between the owner of the land, who has contracted for the building, the subcontractor, the person who supplies the material or provided the labor.

I think a simple example, if you can be simple with respect to this Bill, would show what is meant by the principle. An owner of land – say the Member from Cannington – purchases lumber from a lumber company to be used, and which is used, to erect a house on the owner's land. At common law the lumberman only has a claim against the owner, the Member for Cannington, for the price or value of the material supplied, which could be enforced by an action in the case of any debt.

Under the Mechanics' Lien law, the lumberman is entitled to a lien on the land and the buildings for the price of the lumber supplied and used, by say, the Member for Cannington. If the owner does not pay, the lumberman may enforce his lien by an action in the court and the court may order a sale of that property of the Member for Cannington.

Here, a direct contract, between the owner and the lumberman.

Let me just give a slightly different set of facts which are a little more complicated. An owner of a lot or lots in Regina decides, for example, to erect a $1 million apartment block on the lot or lots. He engages a general contractor to erect the building for him. Now such a job will involve a

large number of obviously different materials, lumber, bricks, cement work, electrical supplies, heating, plumbing, painting, plastering and the labor to install them. The contractor may decide to undertake some of the construction work himself and order whatever materials he requires from supplier. But he may also decide to sublet or subcontract, by separate individual contracts, the electrical work, the excavation, the heating, plumbing, etc., to four or five or even more so-called sub-contractors.

The owner of that apartment block is, of course, liable under his general contract, he is liable to pay the general contractor and the contractor may sue the owner on his agreement to pay. And the owner, of course, looks to the contractor, conversely, to make sure that the building is properly erected in time, etc.

But what must be emphasized is this: the owner is not liable to any other person whether he is a subcontractor under the contractor, or any person who supplies labor or services or material under the contract to the contractor or the subcontractor, because there is no agreement directly between the owner and the subcontractor, or that person to pay him for the material supplied.

So that, for instance, a person who supplied lumber to the contractor that is used in the building, may sue the contractor for the price of the materials, but he has no claim against the owner.

Similarly for the subcontractor who gives of his labor and services. Therefore, Mr. Speaker, you may have a situation where the contractor has entered into a number of subcontracts below him, who may directly or through their suppliers, have supplied to the project labor and materials, and whose only remedy would be to rely on the honesty and the ability of the contractor to pay them. It is here that the Mechanics' Lien law steps in and provides that that owner, the owner who builds the apartment block, that the owner must retain a certain percentage of each payment he makes to the contractor on account of the contract price until the contract is absolutely completed.

If the contractor has subcontractors under him, the subcontractor must also hold back a certain percentage of the money he receives from the general contractor.

The Act then provides that the contractor, the subcontractor and the supplier of labor or materials, is entitled to a lien on the owner's land and also on the holdback.

No problems arise, of course, if everyone discharges his obligations. The problems do arise where the contractor or subcontractor fails to discharge his obligations. And the result, Mr. Speaker, is very expensive and lengthy litigation.

For example, contractors as well as subcontractors, have been known to have received substantial payments from the owners, under the original contract, and then failed to pay out the money to all those others below them who are entitled to payment. Contractors have been known to abandon contracts before the job is completed and to have failed to pay out any of the moneys received from the owner.

The holdback provisions of the Act of the percentage of a contract price from time to time paid by the owner to the contractor are intended to afford some protection to the subcontractors and others who supply labor and materials.

Mr. Speaker, this Bill basically does not change that principle. Under the present Act there is no reason why a contractor or a subcontractor may not agree to waive the benefits of The Mechanics' Lien Act. But the Act specifically provides that that agreement is not binding upon persons who are not parties to it, so that a person who supplied materials for the construction of a job, would be entitled to a lien under the Act. But a workman now has other laws that protect him for his wages.

There are, in addition, The Labour Standards Act, Wages Recovery Act and others that are known to the Members.

The Bill does not interfere with the rights of the parties to make any agreements they wish to make, but one of the new provisions in the Bill is that the rights to agree that The Mechanics' Lien Act shall not apply, is taken away and all persons who supply materials or labor under a construction contract with be entitled to the benefits of the Act.

If perchance an owner or contractor should succeed in obtaining an agreement to waive the benefits of the Act, that agreement is null and void.

Now in addition, Mr. Speaker, this proposed bill provides that all payment, from time to time, made by an owner to a contractor under a contract, on account of the price, and all payments from time to time made by the contractor to his subcontractors, will be paid to him in trust and will be deemed a special trust fund for the benefit and protection of the subcontractor and all persons who supply labor, services or material under the contract.

The subcontractor and all other such persons will have a lien on that trust fund for the amount of their claims. The contractor as such trustee of the moneys will henceforth occupy a very special position at law, and have very important and heavy duties imposed upon him to see that he administers the trust fund according to the provisions of the Bill.

This, Mr. Speaker, is probably the key aspect of The Mechanics' Lien law. The establishment of the trust provision and making the contract price, the contract trust provisions and placing trust obligations on those in law such as the contractor and the subcontractor.

The subcontractor, therefore, Mr. Speaker, and all other persons who supply labor service and materials, under a contract, will have not only a lien on the land and the building constructed, which remains unchanged, but also the holdback on the unpaid contract price and a lien on the trust fund. Procedure is provided in the Bill for a summary an inexpensive way of enforcing proper administration of the trust fund provision.

Mr. Speaker, very briefly, there are one or two other provisions that must be raised. Contractors or subcontractors are not the only persons who have been known to try to defeat directly or indirectly the claims of persons who are entitled

under this Act. There are several ways in which an owner may try to beat the people below him. In order to finance construction, say of an apartment block again, the owner may mortgage the land on which it is to be built for an amount which would include the whole or portion of the contract price. The mortgagee would not advance all the money at one time, but would pay perhaps, only a portion when the mortgage is registered, and the remainder according to the progress of the construction.

But there is nothing in the present law to stop the owner from putting the first advance in his pocketbook or in his own cash chequing account and to that extent at least defeat claims of the contractor and other lien claimants.

There are other ways in which a lien claimant's lien can be defeated with respect to this matter. These problems do not arise in Saskatchewan alone, other provinces have had to meet and face similar problems.

By this Bill Saskatchewan is following the lead and the experience gained by other provinces in similar fields with respect to owners. Under this Bill the contract price or any portion thereof paid by the owner under a construction contract, will be trust funds in the hands of the contractor as I have said who will be the trustee of those funds.

In addition, the lien claimants will continue also to have a lien on the land and the holdback provisions. Then where the owner agrees to pay all or part of the contract price of the transfer of the other property of the contractor, then for the purpose of this Bill, the owner will be obliged to set up the necessary holdbacks and to pay the contract price to the contractor and the trust provisions will also apply as against him.

Penalties for a violation of these trust provisions exist in all cases throughout.

Mr. Speaker, there are one or two other brief provisions of the Bill which must be mentioned. Many of them have been reproduced from the present operating Act, others are minor changes of the present Act. Many of the provisions were recommended in the Thomson Report that I talked about in the beginning and were included in Bill 78 of 1970 already mentioned.

Provision is made in the Bill for information to be supplied by a contractor to an owner or a lien claimant with regard to a building contract, so that the owner or lien holder may learn what the contract or subcontractor is doing, or has done with the moneys received by him.

Other provisions of the Act deal with procedure for removal of a registered Mechanics' Lien, registered against the owner's land.

Before the Thomson Commission some representations were made that The Mechanics' Lien Act should be repealed. The Thomson Commission did not approve that recommendation and so as far as the Department is concerned we think that the need for a wholly revised Act is the outstanding argument with respect to this provision.

Now just a word or two on procedural matters. The Thomson Commission recommended the adoption of a much simpler legal

procedure to enforce liens than those presently prevailing under the present law. These recommendations have been, by and large, adopted wholly from the Thomson Report.

On the matter of costs, provision is made in the Bill for limitation of solicitor's costs in connection with Mechanics' Liens actions.

The Government and Crown corporations in relation to the Mechanics' Lien Act, must be very briefly discussed. Generally speaking the Bill incorporates the majority of the recommendations contained in the Thomson Report. But one important recommendation has not been set out in this Bill. This recommendation was that the Crown should be bound by the new Act. The present Act does not bind the Crown, and after careful consideration of the recommendation and all its implications, it was decided that the principle of binding the Crown or any of its agencies, would not be included in the Bill.

If the Crown or any of its agencies, for example, SPC were bound by the Act, then a contractor or a person supplying labor or materials in connection with construction of a public work would be entitled to register a lien against the land on which the public work was constructed. The purpose of granting a lien on land and works constructed therein is to secure payment, as I have already said.

Neither the Crown or any of its agencies occupy a position in any way comparable to that of a private owner. The Crown does not default in payment of its contractual obligations. The problem as to whether the money to pay for public work is available does not arise. If the Crown or any department of the Government, or a Crown corporation, undertakes the construction of a building or other public work, the money therefore must be voted by this Assembly before the job is contracted for and the payments are made according to the contract entered.

There was a time when no action could be commenced against the Crown, in fact, Mr. Speaker, unless the Attorney General granted a fiat permitting such action to be taken. But that is no longer the law. I might say those were the days when the Liberal Government was in power and there was a very highhanded and arrogant Attorney General in power in 1944. We have done away with that now and we don't have a power-hungry Attorney General.

Let me now, Mr. Speaker, say a brief word about local authorities. Local authorities include municipalities, school districts, union hospitals, universities and a number of other such similar bodies.

Under the present law such local authorities come within the Act and a contractor or subcontractor may register a lien against such property and in default of payment may enforce the lien by action in the courts. This point has received very careful consideration and under this Bill before the House, such local authorities of their properties will not be subject to this Act.

Mr. Speaker, I have gone into far greater length on this Bill, perhaps than what is the average interest of the average MLA in this regard. It is a very important Bill encompassing

such important principles with respect to trust. Some of these principles in explanation on second reading, I hope will clarify some confusions which might exist. I suggest that the proper way to consider this bill would be in detailed question and answer for Committee of the Whole.

I should also advise Members of the House that there will be three or four House amendments. The House amendments are as a result of consultation with the Saskatchewan Construction Association, who I think, it is fair to say adopt the position that this Bill does again represent a major reform of the Mechanics' Lien law in the Province of Saskatchewan.

With those few words, Mr. Speaker, I move second reading of Bill No. 76.

Some Hon. Members: — Hear, hear!

Mr. Lane: — Mr. Speaker, the right to a lien upon land in favor of workmen who perform work or supply services, and in favor of others who supply materials, is strictly a creature of statute.

In other words, in our long history of equitable solutions to problems, they have never entered into this particular field. Mechanics' Lien legislation is unknown to the common law and it is unique in our common law system, in that historically the concept was founded in Roman law. The concept of protecting those whose efforts, services and materials, benefit the real property of another. It gradually came to North America from the Roman law, or civil code countries, through the State of Louisiana and Province of Quebec, those, of course, being Roman law or civil law countries.

Ontario and Manitoba passed their first Mechanics' Lien Act in 1973 and today all common law provinces of Canada have such legislation. The situation is, as I have said, unique, in that England, for example, as a bastion of the common law system has no such legislation. Each province, although having the same concepts, has many differing provisions. Attempts at uniformity were first made by the commissioners on uniformity of legislation in Canada in 1921. The problem was referred back and forth among the provinces because of its complexities and its differing laws of real property and it was dropped from the commissioners' agenda in 1949, some 28 years later. The desire for uniformity came up again in 1957 and again the commissioners of uniformity of legislation had the matter studied by one of the provinces. It became obvious to all that the problem needed public representation and discussion and in 1960 (as the Attorney General has stated) the former Attorney General, MR. Walker, recommended that at that particular time the subject be dropped from the commissioners' agenda so that a special committee could be established in the Province of Saskatchewan. This resulted in the Royal Commission on Mechanics' Lien under the Hon. Harold Thomson, who filed his report in May of 1963. Most of the provisions in the Act now being given second reading, come from the proposed Act of the Thomson Commission. The Commissioner, Mr. Justice Thomson did state on Page 19 of his report that he felt satisfied that the existing legislation did, and I quote:

> Did serve the interests of those it was developed to protect.

It does, for example, prevent the unjust enrichment of owners who would:

> Otherwise be able to take the benefit of work done and materials furnished for the improvement of their land without payment for them.

Basically this new Act as introduced by the Attorney General has the following new provisions, that are new as opposed to existing legislation in the Province of Saskatchewan. First of all, as the Attorney General has stated:

(1) the holdback moneys will constitute a trust fund;
(2) the condominium development plans and rules are specifically stated;
(3) there will now be a summary determination of disputes;
(4) the requirement to give owners information (owners as opposed to lien claimants) will be a new practice in Saskatchewan;
(5) the appointment of a trustee to administer the funds and carry out the direction of the court, is a new provision;
(6) changes in procedures such as originating notice stating the principles for the practice before the tribunal, and the establishment of the tribunal approach in giving the judge the right to seek his own expertise are basically new provisions.

I would think that the Attorney General would agree with me that the major change is that of the moneys being constituted in trust funds. It is new, both from the reports of the Royal Commission on Mechanics' Liens, Mr. Justice Thomson's Commission, and it is new as compared to existing provincial legislation.

Most of the other changes are a direct result of the draft legislation appended to the Royal Commission Report.

Without going into many details, Mr. Justice Thomson made it quite clear in his report on page 25:

> That it now seems to be generally recognized that these trust provisions create difficulties in those provinces where they have been adopted.

Some of the problems were that the trust provisions would freeze moneys and would cause a slow-down in work progress, with the inevitable delays and postponements for those who supply labor and materials.

Trust conditions in British Columbia had made it practically impossible for new or small contractors to get financing and this, in turn, hurt the industry.

The Thomson Report went so far as to state and I quote:

> I have, therefore, considered all of the arguments submitted on this question and have come to the conclusion that Saskatchewan would be unwise to adopt the trust provisions such as presently exist in New Brunswick, Ontario, Manitoba and British Columbia.

I'm referring to page 26 of his report. He went on and I quote:

> In the meantime our Act is working very well.

We then get into the matter of the trustee, as mentioned by the Attorney General, and Mr. Justice Thomson sees some very obvious problems with the appointment of a court trustee. First of all; he refers on page 50 of his report:

> In the first place the management and sale of the property is in all cases to be under the supervision and direction of the court.

And that means when a proposal is made for the completion of the building, or the sale thereof, all parties to the action must be brought into court on an application for an order approving the proposal or sale, as the case may be. In other words, nothing can be done without first obtaining the approval of the sanction of the court.

> If, as is generally the case, where a contractor goes wrong, there are numerous parties interested, that can involve long delays and much expense. The second reason given was that a lienholder or other interested party who was not disposed to be co-operative, can oppose whatever is proposed.

By throwing his weight around he can generally defeat the proposal or force the others interested to pay him off to the prejudice of those who do co-operate.

Those are two of the obvious weaknesses in the idea of having the court appointed trustee.

The matter of summary Disposition of Disputes, referred to by the Attorney General, is that practice is followed in the Province of Alberta and the proposals in our proposed legislation are from that province.

In the matter, as I have said of the appointment of the trustee, this does not solve the problems as stated by Mr. Justice Thomson. The trustee, again, will require the approval of the court and he will require the support of those who are concerned. Again, this can involve long delays and can allow one lienholder who may want to become obstreperous and he can defeat any proposal or force others to pay him off. These problems are not solved by the draft legislation, although they were well known prior to the legislation being drafted.

There are other possible problems arising from the legislation. First of all, firms, contractors, will have their credit tightened up. There may be some merit in this in that subcontractors and contractors in the future will have to qualify themselves with the banks. Unfortunately the legislation will not define what constitutes and I quote the words “substantial performance” because a definition of the words “substantial performance” would solve the problem of speeding up the moneys from the contractor to the subcontractor. I am not convinced that the legislation will solve the problems of getting the moneys directly into the hands of the subcontractors as soon as possible. It will, however, ensure that the moneys are available by the imposition of the trust commission.

Unfortunately I can’t agree with the Attorney General that this is a whole new Act because little of it is new. The statement that arguments were made to the Thomson Report that the Mechanics’ Lien legislation be repealed was not accepted by the

Thomson Report but was summarily dismissed, and as a matter of fact the only suggestion for the repeal of the legislation came about in the Province of British Columbia, for the simple fact that they had trust provisions there that didn't work. As I say, the trust provisions in British Columbia penalized and hurt the small contractor.

We shall have more to say on this legislation and I beg leave to adjourn the debate.

Debate adjourned.

Mr. Romanow moved second reading Bill 77 – An Act to create Trusts for the benefit of certain Wage Earners and other Persons in respect of payments made pursuant to Contracts for Public Works

He said: Mr. Speaker, this Bill is The Public Works Creditors' Payment Act, 1973 and I will be very brief on it in second reading.

It is companion legislation to Mechanics' Lien law. If the House enacts the Mechanics' Lien Bill we feel that this Bill should also be enacted. If we don't move on the other one we won't enact this one.

The Government of this province through its various departments and Crown corporations spend more money in a given year than probably any individual or group of owners, with respect to construction in this province. The Mechanics' Lien Act, in force from time to time, has never bound the Government or its departments or Crown corporations. The appropriate department of the Government or Crown corporation having a construction job, usually enters into a contract with the contractor at a fixed price and then looks to the contractor to see to it that his subcontractors and other persons working below him are paid up. By way of protection for the Government or Crown corporations as to the proper performance of the contract a certain percentage of the price is usually held back until the job is completed. So far as this can be done the Government or Crown corporation seek to protect those that have supplied labor or materials. In addition, performance bonds and sometimes payment bonds for the protection of the Government or Crown corporations and others having unpaid claims are required.

Problems, such as I have mentioned, when I dealt with The Mechanics' Lien Bill a few minutes ago as to contractors failing to do their duties and paying when they should pay or neglecting to look after their unpaid accounts, have arisen from time to time to the detriment of unpaid claimants in connection with the job. It has therefore been decided that in order to provide some protection to subcontractors and others, contract moneys paid by the Government or Crown corporations to the contractor shall be trust funds in his hands for the benefit of subcontractors and others having claims. These trust provisions will place the contractor in a very responsible position towards his subcontractors and those persons claiming under him. Trust moneys must be paid out within a reasonable time after receipt of them by the contractor. Failure on his part to do so entitles an unpaid creditor to serve notice of his unpaid claim

upon the Government or Crown corporation and upon the contractor as well. After such notice has been served he will be required, that is the contractor, will be required to either admit and pay the claim or he may dispute it, or he may show that other unpaid claimants are also interested in the trust fund. If he disputes the claim or shows that others are also interested in the trust fund, then the contractor must apply to the court to have the rights of all parties determined by the court. If the Government or Crown corporation has held back a portion of the contract price, or if there remains an amount unpaid, then the Government or Crown corporation may deduct the amount of the claim of which it has notice or pay the money into court and end proceedings then pending.

Provision is also in the Bill requiring the contractor, upon demand, to furnish information to the Government or Crown corporation or other persons interested as to the outstanding accounts, the extent to which the contract has been completed and the moneys received by the contractor and what he has done with the money so received.

This is the general effect of the Bill so far as the Crown and Government corporations are concerned.

But the Bill also includes and brings within its perimeter all local authority such as municipalities, urban or rural, school districts, hospital districts, etc., all listed in the schedule. These authorities occupy substantially the same position with regard to financing of a capital and public work as the Government or Crown corporation. Therefore, the rights and duties and responsibilities of contractors acting under these local authorities will be the same as those I have explained applicable to the Government and to other Crown corporations.

Therefore, Mr. Speaker, the main principle of this Bill is to see that the contract money laid out by the Government, Crown corporations and local authorities is used by contractors and others for the specific purpose for which construction of the public work is authorized.

It is a companion piece of legislation and I move second reading of Bill 77, I believe it is, in any event, I move second reading of a Bill respecting The Public Works Creditors' Payment Act, 1973.

Some Hon. Members: — Hear, hear!

Mr. Lane: — Mr. Speaker, the Attorney General made reference in moving second reading on the Mechanics' Lien legislation that the Crown should not be bound by Mechanics' Lien legislation and this, of course, is contrary to recommendations in the Thomson Report. We now serve with this legislation, the Public Works Creditors' Act to, in effect put, by estimate about 75 per cent of the construction of the Province of Saskatchewan under the jurisdiction of this Act.

There are no provisions which we find to be a weakness for progressive releases of holdback moneys as are in the Mechanics' Lien legislation. There is no definition of "substantial performance", which would allow the subcontractor to get his money when he has completed his work. Unfortunately the Crown and the

Government has see fit to exempt such things as road building, maybe with a lot of merit, but it is a large factor in the construction industry of Saskatchewan.

What the Act serves to do too, which we find a weakness, is that schools and hospitals and some of the public works are now taken out from under the jurisdiction of the Mechanics' Lien legislation and put under this Bill. Again, with its obvious weakness there is not provision for progressive releases from the holdback moneys.

There are advantages to this particular piece of legislation. The Crown will now be able to pay out to contractors out of surety moneys which will assist the subcontractors. The Crown will be allowed to collect from the surety which avoids a very technical problem that has existed in the past.

We shall have further comments on the legislation for the simple fact that we state that this legislation will cover approximately 75 per cent of the construction in the Province of Saskatchewan and some of the very obvious benefits of the Mechanics' Lien legislation were not transposed into this legislation. We beg leave to adjourn the debate.

Debate adjourned.

WELCOME TO STUDENTS

Mr. D. H. Lange: — (Assiniboia-Bengough) Mr. Speaker, on behalf of Allan Engel (Notukeu-Willow Bunch) who is not in the Chamber today, I should like to introduce a group of 21 Grade 7 and 8 students from Limerick. They are accompanied by their teacher Mr. Dahlasjo and they have already been to the RCMP barracks, and to CKCK television, Leader-Post and after they leave here they are going to the SPC building.

I would welcome them to the Chamber and hope that they have a most enjoyable afternoon and if they are wondering why some of the Members are not in the Chamber, it is because they are all out in their constituencies explaining what we have been doing here for the past three months.

Hon. Members: — Hear, hear!

The Assembly adjourned at 5:25 o'clock p.m.