LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
May 3, 1978

The Assembly met at 2:00 o'clock p.m.

ORDERS OF THE DAY

WELCOME TO STUDENTS

Mr. J.R. Messer (Kelsey-Tisdale): — Mr. Speaker, I would like to introduce to you and through you to the members of the Assembly 85 grade eight students from the town of Tisdale, the Centennial Junior High School, and I believe seven grade seven students from the school in Crooked River, Saskatchewan. They are accompanied by their teachers, Mr. Earl McNair, Mrs. MacFarlane as well as two chaperons, Mrs. Wallman and Mrs. Ofukany. They, I believe, left Tisdale on or about 6 or 6:30 this morning. They will no doubt have a long day. I hope members will register with myself their pleasure in being about to see the legislature of Saskatchewan in process and wish them well on the rest of their tour in the city of Regina.

It is, Mr. Speaker, particularly pleasing for me to introduce this group in that my youngest son, Michael, is one of the grade Eighters included in those 85 students. I hope we all wish them well, Mr. Speaker.

Hon. Members: — Hear, hear!

Mr. R. Katzman (Rosthern): — Mr. Speaker, I would like to introduce to the Assembly a group of students from Rosthern School. They are sitting in the east gallery. They are here today watching question period. I think this is their second attempt to get here. One group was snowed out a while ago. I hope they enjoy the question period and I will be meeting with them later.

Hon. Members: — Hear, hear!

QUESTIONS

Charitable Organizations - Tax Free Status

Mr. R.H. Bailey (Rosetown-Elrose): — Mr. Speaker, I would like to direct a question to the Premier. The Premier is no doubt aware the federal government has sent out a very controversial circular which states in general that charitable organizations or organizations which fall into that provision under the Income Tax Act will not be allowed to keep their tax free status if they are found to be involved in 'political activity'. Have you, Mr. Premier, made any representation to the federal government on the intent of the message of this circular?

Hon. A.E. Blakeney (Premier): — Mr. Speaker, I have not had any representations from any of the charitable organizations. I rather doubt that the circular meant what it appears to mean and I have been expecting the federal government to issue a clarification almost momentarily. I think it quite unlikely that the federal government meant to say, as it appears it might, that, let us say, the Saskatchewan Natural History Society may not lobby for the establishment of, let us say, a grasslands park and if it did so, would lose its status as a charitable organization. I doubt whether that was the meaning. As I say, I have been expecting a clarification. If one is not forthcoming and if I

receive representations from charitable organizations within Saskatchewan, I would certainly be prepared to be in communication with the federal government for clarification.

Mr. Bailey: — A supplementary question. Mr. Premier, have you reviewed the circular to see if it is in fact a violation of the Saskatchewan Bill of Rights, and further, when you have, would you inform this House as to the intent of your government and what you plan to do if the Prime Minister continues as he did today, to reinforce his original statement?

Hon. Mr. Blakeney: — Mr. Speaker, I have not reviewed the circular. It will be known to hon. members that the number of circulars that come out of all government, but more particularly the government at Ottawa, are such as to be beyond the capacity of any of to review. I mentioned all governments. I do not excuse our own when it comes to producing paper.

With respect to that, if it appears that that meaning is being adhered to, undoubtedly I will now invite charitable organizations in Saskatchewan to get in touch with me and suggest that our government make a representation. I think they will be more abreast of the situation than we. With respect to whether or not it is a violation of the Saskatchewan Bill of Rights, I think it is not fruitful to examine into that since it would only be a violation in an academic sense, not in a legal sense. Since I am quite sure that the federal government is able to make rules, regulations and laws governing those organizations which are entitled to deductions, contributions to which are entitled to deductions under the Income Tax Act without complying with any Saskatchewan legislation.

Mr. Bailey: — A final supplementary, Mr. Speaker. As I understand it there has been no precedent set in Canadian law where in fact the full intent of this bill has ever been brought to bear. Would you not agree, Mr. Premier, in your response to my first supplementary question that making a representation to the true letter of the law, to the Premier or to the Attorney General is in fact a violation of the law and could pose some problems in the manner in which charitable organizations wish to protest?

Hon. Mr. Blakeney: — I don't think I agree with that legal interpretation. I know that all hon. members will forgive me if I do not give a considered legal opinion with respect to a circular that I have not seen in its relation to particular provincial statutes which I have not reviewed for some months or years.

I would not regard it as a breach of law. I believe that if the circular bears the interpretation which it has been given in public, then it is as a policy matter, quite undesirable. I say again that I expect that there will be a clarification to make it clear that it was not the purpose of the Government of Canada to limit the charitable organizations in carrying on their proper functions of making representations to governments at all levels.

Energy Shortage and Conservation

Mr. R.E. Nelson (Assiniboia-Gravelbourg): — A question of the minister in charge of SPC. The Saskatchewan citizens have been told we have an energy shortage and we have been told to conserve energy and that's good. Prices have been raised 101 per cent for natural gas and we are told partially to encourage conservation. Now we are told Canada and Saskatchewan has a gas glut. Would the minister, in view of the

surplus of gas and the substantial profit of $33.4 million over the past two years in the gas corporation, would he not consider giving consumers an immediate substantial reduction in gas rates.

Hon. J.R. Messer (Minister of Mineral Resources): — Mr. Speaker, let me first say that there is no gas glut in the long term. It may be that Alberta, because of its recent finds of extensive fields of gas, believe that there is a short-term surplus as far as their activities are concerned but certainly in the long run, there is no surplus of gas. At least that is the position that the province of Saskatchewan takes. Let me say, the member talks about conserving. I think that the Saskatchewan Power Corporation and the Government of Saskatchewan have done more in regard to educating the benefits of conservation of energy of any other province or any other utility in Canada, Mr. Speaker. Let me also say that when he talks about increases we do not deny that there have been significant increases in electrical rates and gas rates but by comparison to other jurisdictions in Canada, we are competitive and in many instances, in fact, lower than other jurisdictions. So I think, Mr. Speaker, to undertake to reduce the price of that energy, which in the long term, is in short supply would bring about a disregard for conservation of energy and I think encourage misuse of gas which we will be in need of in the very near future.

Mr. Nelson (As-Gr): — Supplementary, Mr. Speaker. Surely the minister would agree that when we have to haul gas 4,000 miles to Ontario, it should be cheaper in Saskatchewan but would the minister not also agree that in the short-term that reductions in natural gas would reduce the electrical power use and would prevent the possible blackouts that have been mentioned by SPC and the minister.

Mr. Messer: — The management of the energy related industry in Saskatchewan I think is better than most other jurisdictions. We have undertaken through planning, to provide security to Saskatchewan consumers of electricity and gas that not many other regions of North America enjoy. The member tries to allude to higher gas prices being prevalent in the province of Ontario because of significant transportation costs and that's true. But, the gas costs in the province of Saskatchewan are comparable and in many instances cheaper than they are in the province of Manitoba, than they are in the province of British Columbia, and there are some communities in the province of Saskatchewan, Mr. Speaker, that are serviced with natural gas cheaper than in the province of Alberta.

Mr. A.N. McMillan (Kindersley): — Mr. Speaker, a supplementary question to the minister responsible for SPC. Is it not a fact that today, while the Saskatchewan Power Corporation pays over $1.80 a thousand cubic feet for gas that it buys from Alberta, its industrial gas rate in Saskatchewan is roughly $1.40, and its gas rate to senior citizens and all people who have to heat their homes is $2.56 a thousand cubic feet, and these people are subsidizing the large industries in Saskatchewan for the use of our natural gas?

Some Hon. Members: — Hear, hear!

Mr. Messer: — Well, Mr. Speaker, I think the member should talk to the member for Assiniboia-Gravelbourg in regard to the cost of distributing gas. 65 per cent to 70 per cent of our gas comes from the province of Alberta and there are costs related to bringing that gas to the province of Saskatchewan, even though . . . (inaudible interjections) . . . even though we have those additional costs, Mr. Speaker, I ask the members only to inform themselves; compare residential rates of natural gas to other

jurisdictions in Canada and we are comparable, and in some instances, more. British Columbia has a significant quantity of natural gas. The Premier just passes to me that in Prince George, British Columbia, for natural gas 185 mcf used, the price is mcf $362 a year; Vancouver, $367. In Prince Albert, Saskatchewan, with very significant transportation costs, the cost is $318 - in Regina, $318; cheaper than in some of those areas where they have gas, so to speak, in their back yard, Mr. Speaker.

DNS - Furniture

Mr. G.N. Wipf (Prince Albert-Duck Lake): — Thank you, Mr. Speaker. A question to the minister of DNS. Yesterday in Prince Albert in the news media, there were stories and pictures of a large amount of furniture being taken to the dump and being destroyed and it was DNS furniture. A reply from a DNS spokesman apparently stated that this furniture was old and was from DNS construction camps, old mattresses, chesterfields and stuff like that. Can you state, as your spokesman did, Mr. Minister, that this used furniture was from construction camps only and that none of it was from subsidized staff housing?

Hon. G.R. Bowerman (Minister of Northern Saskatchewan): — Mr. Speaker, I wasn't with the hon. member at the dump when the materials were being thrown away . . . (laughter) . . . but I am advised by my officials that the Department of Health had issued instructions that the old mattresses which were being destroyed, were in fact, under the orders of the Department of Health.

Mr. Wipf: — Mr. Minister, supplementary question. Your spokesman in Prince Albert said that this was furniture from DNS construction camps. My question then is, was there any of this furniture from the DNS subsidized staff housing? Not construction camps, from the other area.

Mr. Bowerman: — Mr. Speaker, I can't tell the hon. member where the material being disposed of came from. I can offer the hon. member, if he needs it, he can go and pick it up - if he wishes to. I suggest that the information which I have and which has been provided to me by the officials, is that the Department of Public Health under order, required that the material which was disposed of, be disposed of. It does not really matter where it comes from. If it was no good for staff it really would not matter whether we were in a construction camp or in some other provision of the department.

Intersessional Committee for Criminal Reform Proposals

Mr. S.J. Cameron (Regina South): — A question to the Attorney General. Yesterday the federal Minister of Justice announced major reforms in respect of several areas of the criminal law and has invited responses from the provincial Attorneys General. I am wondering whether the Attorney General will be prepared to consider responding to that in some broader way than what would be traditional. The tradition would be for the Attorney General's Department itself to respond to those reforms. Would you be prepared to look at setting up an intersessional committee or some other mechanism to get some broad public input into those reform proposals?

Hon. R. Romanow (Attorney General): — Well, Mr. Speaker, quite frankly that is a suggestion which had not run across my mind, namely the establishment of a committee. I would not agree to this at this particular time nor disagree to it. I would like to think about it. Quite frankly I have not seen the proposed package of amendments and I do not believe anybody on my staff has yet either. Before I give a definite answer

on that I would probably have to take a look at the amendments and get some advice from my officials as to whether or not any kind of a committee would serve a useful function in this regard.

Mr. Cameron: — Well may I ask by way of supplementary, why would the Attorney General want to put that question to his officials? It is a broad political question I am talking about. The public is consulted in respect of so many areas of government. This is one area of government in respect of which the public is seldom consulted. The public is very interested in this area. They are interested in the whole law and order question. Therefore I put to you the proposition and ask you if you would not consider setting up an intersessional committee or, as I say, some mechanism in order to give to the public, at least of this province, some means of input into these reforms?

Mr. Romanow: — Well, Mr. Speaker, first of all, again I have not seen the amendments but it would not at all surprise me if a certain number of the amendments were of a very high technical legal nature which may not be of very much interest to the public generally.

Secondly, let us keep this in perspective. These are not my amendments and they are not the Government of Saskatchewan's amendments. These are the amendments proposed by the federal government. What the member proposes is that under the aegis of a provincial government, a provincial community should have some input into the amendments. While that may be a useful exercise it is but merely one province out of 10 and even at that, if it was 10 out of 10, it is not the federal government's responsibility for the carriage and the passage of the amendment of those bills. I suggest that if the member for Regina South is sincere in his recommendations that there should be inputs before the law is passed, he really should be writing letters to his colleague, the Minister of Justice, to make sure that that kind of input takes place.

Long Distance Time Usage Printed on Invoices

Mr. D.M. Ham (Swift Current): — Mr. Speaker, I would like to direct a question to the Minister of Telephones. Mr. Minister, in light of the many provincial telephone companies in Canada indicating long distance time used on each customer's invoice, and since telephone companies only really sell time, why has your government not taken steps to print time usage on Saskatchewan subscribers' invoices?

Hon. N.E. Byers (Minister of the Environment): — Mr. Speaker, the hon. member raised that question some months ago and I thought I had replied to him that it is the intention of Sask Tel in the very near future to commence indicating the time of each call on the invoice. If any subscriber in this province questions the charge for a long distance call, all of that information is available. There are tapes that run continuously in the electronic switching stations that record the length of calls. If any subscriber questions any call as to the length of it that information can be provided.

Mr. Ham: — Supplementary, Mr. Speaker. This matter was not raised in this House, Mr. Minister, it was raised some 12 months ago. I am wondering when this is to take place.

Mr. Byers: — I didn't get your question, please.

Mr. Ham: — This matter was raised some months ago and not in this House. I am

wondering when this transition will take place.

Mr. Byers: — Within a very short period of time. I am not sure whether it is the first of June or the first of July but it is within a very short period of time.

Reduction in Gas Price

Mr. McMillan: — A question to the minister responsible for SPC, Mr. Speaker. Is it not a fact, Mr. Minister, that your gas rates to the industrial corporations in Saskatchewan is at roughly $1.40 per 1,000 cubic feet or 30 or 40 cents less than your actual cost and that you make up that loss by charging, by fleecing the general public of Saskatchewan to the tune of $2.56 a 1,000 cubic feet?

Mr. Messer: — No, Mr. Speaker, that is not true.

Mr. McMillan: — Supplementary question then, Mr. Speaker. Would the minister then not admit that while he charges the Saskatchewan public over $2.50 a 1,000 cubit feet and charges the industrial corporations in Saskatchewan far less than your cost you also sell natural gas to the residents of Medicine Hat for 16 cents a 1,000 cubic feet.

Mr. Messer: — Mr. Speaker, the member knows full well that part of the conditions of the removal permit for gas in the Medicine Hat field are that we supply Medicine Hat a certain percentage of their requirements. That is a condition on removal if we are to get gas from Alberta. Mr. Speaker, we may not have to rely so heavily on getting gas from Alberta had the former Liberal government not sold the Hatton Gas Field for about half a million dollars where there were literally millions of cubic feet of gas that we now have to buy back at 10 or 15 or 20 times that price.

Some Hon. Members: — Hear, hear!

Mr. McMillan: — The fact that this minister has not hesitated to rip up every contract he ever held with anyone in Saskatchewan, what is preventing you from changing the contract you have with the city of Medicine hat?

Amendments to Favor Women

Mr. H.W. Lane (Saskatoon-Sutherland): — Mr. Speaker, a question to the minister in charge of SGIO. In a brief submitted to this House by the Status of Women group, they mentioned and recommended to this House that the Automobile Insurance Act be amended to include homemakers as part of the permanent weekly indemnities in case of total or partial incapacity. Now I believe you would admit that this is a blatant unfairness and a blatant prejudice that exists in Saskatchewan today and your answer I take it is that you will wait until you deal with the reparations matter, ‘no fault’ insurance. My question is this, will you not admit at this time that this is a continuing prejudice against women in one sector of our society and what steps if any, are you going to take to implement changes now?

Hon. E. Whelan (Minister of Consumer Affairs): — Well, the hon. member is making wild charges and irrational statements but I think we should look at the facts.

First, this government, since 1971 has on three occasions, amended the section regarding women. I’m sure that the hon. member should know that there is a proposal

under ‘no fault’ which incidentally, is also being suggested in British Columbia which will give equal treatment to the wage earner whether he be a man or a woman and it is probably the best proposal that has ever been put forward in this respect in the province of Saskatchewan or anywhere else in Canada.

Mr. Lane (Sa-Su): — Mr. Speaker, I doubt that the hon. member knows what insurance companies I represent. I am certainly not on retainer by any of them.

Mr. Speaker, I put this question by way of a supplementary to the hon. member. You know very well that with this kind of a change, right now by a simple stroke of the pen you could change this provision at this time and it wouldn’t cost more than say, $200,000 to provide fairness for all people in our society under this legislation. Why do you insist then on waiving in light of this small amount of cost in terms of what you spend annually, why do you wait until perhaps two or three years down the road to have the proposals come in? Why don’t you change it now?

Mr. Whelan: — I think the hon. member should know as well that the amendment that was made to the package policy, effective June 1, put both parties, all persons on equal footing and this covers a large percentage of all vehicles in the province of Saskatchewan. If you knew that I think you could tell the people accurately, this is what we are doing. In addition to that we have a proposal that is better than anything that has been put forward.

What you are suggesting is a patchwork performance. You are suggesting the old adage that we are talking about a Saskatchewan Power Corporation that we should have wind-driven machines and diesel motors. I think there is a complete new deal that should be forthcoming in this type of legislation, not a patchwork sort of thing that you and your leader are suggesting. And to say we could do it with the brush of a pen is not accurate. There has to be an amendment. There has to be a whole series of amendments and this will only delay a proper program from coming to this province.

Mr. Lane (Sa-Su): — A supplementary. What I am suggesting to the hon. member is that the cost is not great in relation to your entire budget and you haven’t taken the opportunity to deny that. What I am further suggesting is that it would be very simple to put the amendment in place. Are you now saying to this House and to the people of Saskatchewan that you refuse to put that in place until your bring in your reparations proposals?

Mr. Whelan: — What I am saying is that the Saskatchewan Government Insurance Office has made a proposal that is recognized by all of Canada as the leading proposal that will give protection to all people. It’s fair and it is equitable and now we see the province of British Columbia say they are going to do the same thing, even the province of Quebec and I am saying that we should have it for all of Canada. Your party should be introducing a proposal as the opposition in the House of Commons is suggesting that every insurance recipient in Canada should have it. I ask you, what are you doing?

Cable Television

Mr. C.P. MacDonald (Indian Head-Wolseley): — Mr. Speaker, I would like to direct a question to the Minister of Sask Tel, in charge of cable television in Saskatchewan. I

understand now, Mr. Minister, that Sask Tel is now busy installing filters and converters for those subscribers of CPN and Cable Regina in the province. Is it a fact, Mr. Minister, that the filter is working so badly that the quality of the signal is so impaired for a multi-unit dwelling, such as apartment buildings and hotels, that now not only do you need a filter and a converter but now an amplifier will be required in order to bring up the quality of the signal to all multi-unit dwellings?

Hon. R. Romanow (Attorney General): — Mr. Speaker, the government has not received and certainly I don't believe Sask Tel has received any such complaint. This is the first complaint that the member raises and I would like him to put some documentation in his supplementary question to me on this area. I would like to know what apartment complained. There have only been about 60 units installed in total in the last 48 hours or so since the new equipment has arrived, so it would seem to me hardly plausible that the kind of statement that the member makes, in fact, takes place. But I could be open to correction and I invite him to table some documentation for me.

Mr. MacDonald: — Supplementary, Mr. Speaker. Could the minister - I don't know who is the Minister of Sask Tel but one of these days I hope you will let the Minister of Sask Tel answer his own questions. Could the Minister of Sask Tel tell me whether employees of Sask Tel now are subscribing or soliciting converters for CPN by people that are knocking on their doors because it has been reported to me that when Sask Tel employees go and discuss the installation of the Sask Tel equipment they are now asking if they need a converter for CPN? Could the minister tell me if that is a fact or not? And could you tell me is it a fact or is it not a fact that in order for the quality of the signal for multi-unit dwellings to be of a sufficient quality for reception that you need an amplifier as well as a converter and a filter?

Some Hon. Members: — Hear, hear!

Hon. Romanow: — Mr. Speaker, if I could have a little quiet here. The answer to the question is that Sask Tel has an obligation to install converters and filters as required, depending upon the subscriber who is involved. That I think is obvious and we have indicated that that is the case. What's the second part of the question again? Well, that's the end of the question, you can ask me the next supplementary.

COMMITTEE OF THE WHOLE

Bill No. 22 - An Act respecting Elementary and Secondary Education in Saskatchewan

Mr. Chairman: — Before we start our clause by clause on Bill No. 22, I would like to make a brief statement to the committee and we will have copies of this distributed to you very soon. But the matter of substantive motions being moved during consideration of bills in the Committee of the Whole has been a matter of concern to me for some time. I will review the parliamentary authorities on this issue and will also review the practices of this Assembly.

The purpose of the Committee of the Whole is to carry out a clause by clause study of a bill. Debate on the general principles of the bill should occur on the second reading stage of the bill in the Assembly itself. This is not news to most of you, I know. When a bill is being considered in Committee of the Whole each clause forms a distinct motion. The question being put is, 'That the particular clause under consideration be agreed to.' The rules of the Assembly state that when there is a motion before the Assembly, no substantive motion that is not incidental to the original question can be entertained.

That is rule 41. This reflects the fundamental principle that there can be only one question before the Assembly at the same time and I am referring to Beauchesne's Parliamentary Rules and Forms, citation 191(2), p. 163. The only motions that are in order, when there is already another motion before the Committee, i.e. 'That clause X be agreed' are amendments, superseding motions. Again I refer you to Beauchesne's Parliamentary Rules and Forms, page 165, and motions relating to the management of the committee's business or the arrangements of its proceedings. This procedure in no way limits the wide discussion of general matters which is always permitted on clause 1 and also recorded divisions are of course permitted on each clause or amendment.

The procedures outlined above are followed by this committee, throughout its history I guess, until perhaps the last two or three years. In recent sessions, the committee has inadvertently begun to debate substantive motions which are self-contained proposals and not amendments to a particular clause. According to the Journal this has occurred several times. Strictly speaking, the same procedures ought also to apply during considerations of estimates, in Committee of Finance, where each subvote called forms a distinct motion. Again, I refer you to Beauchesne's Parliamentary Rules and Forms, Fourth Edition, page 203, which clearly describes the kinds of proceedings permissible in Committee of Finance by stating that:

> Each resolution for a grant forms a distinct motion which can only be dealt with by being agreed to, reduced, negatived, superseded or withdrawn. The committee may reduce the amount of a grant by the omission or reduction of the items of expenditure of which the grant is composed. Here the power of the committee ceases.

The Committee of Finance has also adopted the practice recently of considering substantive motions, as well. I believe it is my duty to bring these changes in practice to the attention of the committee. I do not feel that I can flatly rule these new practices out of order, since several such motions have been permitted in the recent past. However, I also believe that such an important change in the practice of this Assembly should be done only by conscious decision of the Assembly itself. I therefore propose to raise these matters in a special committee on Rules and Procedures at the very earliest opportunity. In the meantime, I would ask members to consider the matter and to have their representatives on the committee informed as to their wishes in this respect.

In the meantime, pending guidance from the Rules Committee, I intend to continue to follow the recent practice of allowing substantive motions in the Committee of the Whole and the Committee of Finance.

Hon. members, that is my statement. I ask you to consider it and I hope to be able, at the very earliest time, to come to a firm decision as to how you think it should operate.

Mr. MacDonald: — Mr. Chairman, if I may make a comment on it. I suppose it would be rising on a point of order but I agree with your dissertation today. As I indicated last night to you, I thought that the motion of the member for Saskatoon-Sutherland, nothing to do with him personally because it has been as you indicated a practice in the past, was a motion completely out of order. It was in consideration of clause by clause study of a bill, introducing a motion which was completely outside the content of the bill and in no way should have been considered at that time. Of course what it does is it throws open the Committee of the Whole to debate on any subject related to the broad general topic of education. I agree with what the chairman has indicated. I think it

should be brought to the Rules and Procedures Committee at the earliest possible time because otherwise what happens is that you permit four or five members to go broadly astream and then you all of a sudden have to call somebody back in order. What you are really doing is throwing open the debate on principle again. I agree with you, Mr. Chairman, and I think you should continue it and pursue it as quickly as possible.

Mr. Chairman: — I thank the hon. member. I might just mention just to remind all members that the day before, I believe, I allowed the hon. member for Regina Lakeview to conduct it in the same way I think, yes, O.K. I would like to go along to our orders of the day, then. We are dealing with Bill 22 and section 1, short title.

Section 1

Mr. MacDonald: — Mr. Chairman, if you recall last night, as the Committee of the Whole rose, I was about to rise in anger to participate in the debate. Unfortunately, my colleagues to the left felt it was unwise or something or other not to permit me to participate. I have kind of mellowed over the evening and I am going to try to follow what the chairman has indicated and listen with a great deal of interest so perhaps I can generate that feeling of vigour, again, so that I might be able to get back into it.

I want to say there were two or three comments last night that were of great deal of interest. It was rather interesting to hear my colleague, the member for Maple Creek (Mr. Stodalka) get up and point out that there were two papers sent out from one caucus, to various parts, various parts of the community of interest in education, the trustees and the teachers. One side was from the member for Saskatoon-Sutherland (Mr. Lane) where he indicated the wiffle-waffle approach of the Conservative Party. He came out very strongly to try to engender some kind of a confidence in the trustees, the member for Rosetown-Elrose (Mr. Bailey), which was a very honest and frank approach to the problem.

Then, of course, the member for Saskatoon-Sutherland got up and said the Liberals didn't know what they were doing; somebody else got up and said the government doesn't know what they are doing. It was rather an interesting debate because all of a sudden everybody in the House, all three sides began to say that nobody really knows where they stand on the bill.

Well, I would like to point out to somebody that I am not sure, but I would like to know that the Votes and Proceedings show that the Liberal caucus voted unanimously against the bill in second reading, those that were here; that is correct, those that were here. I would also like to suggest, was the member for Saskatoon-Sutherland here? Were you here? I was under the impression that the member for Indian Head-Wolseley stood on the platform in front of the buildings, on the steps, and expressed publicly to the province of Saskatchewan the position of the Liberal party. But what is far more important, the Liberal party called a press conference and outlined its position very clearly to members of the press, outlining its complete amendments, its objections to the bill, its recommendations for improvement. It then engendered comment from the Saskatchewan Trustees' Association, the Saskatchewan Teachers' Federation.

I would like to suggest to the member for Saskatoon-Sutherland there is not one trustee in the province of Saskatchewan, there is not one teacher in the province of Saskatchewan that doesn't know exactly, in the media and in *Hansard*, the position of the Saskatchewan Liberal Party about Bill 22. I would like to suggest to the member if he picks up *Hansard* where I deliberately read all the amendments that were introduced

in the press conference and if he picks up the news reports, he will find out, very clearly, where the Saskatchewan Liberal Party stands in relation to Bill 22. I would also like to say that if he picks up the letter that he wrote and talks to teachers or trustees, or the public of Saskatchewan, then I think you will find that there will be a little difference of opinion of who stands firm on one point or the other.

However, I am not here at this time to debate with the member for Saskatoon-Sutherland. I would enjoy it very much if at some opportunity later on this afternoon he gives me that opportunity because the childishness of his remarks in the past has not really generated my enthusiasm.

I want to say a word to the minister. Last night I started off to say - you know we have had many controversies in Saskatchewan. I go right back to those that I have been involved in, politically, that I recall very specifically. I look at Medicare in 1962; I look at deterrent fees or utilization fees; I look at the Hog Marketing Commission; I look at Bill 42; I look at the potash legislation; I look at Bill 47, and only on one occasion can I recall where pressure from the public and pressure from the opposition - and everyone knows it was the Liberal opposition because the Conservatives didn't speak. A pressure from the opposition called upon the minister and the government to all of a sudden re-examine its position and come forward with a compromise that might be acceptable to all parties concerned. And the only other time I can think of or recall was the Saskatoon compromise away back in 1962 where Medicare and the thousands of people from every community in the province generated so much animosity and hostility to the presented form of Medicare that, of course the Government of Saskatchewan at time under Woodrow Lloyd amended The Medical Care Act and brought in the Saskatoon compromise.

In deterrent fees, when we were the government, in the Hog Marketing Commission, in Bill 42, in Bill 47 in the potash debate, the government remained absolutely firm and stubborn despite the representations of thousands of its citizens, despite the recommendations in the constructive manner of the opposition.

I want to compliment the minister and I say so, because the history of Bill 22 has been a sordid political mess, as I indicated on the platform on the steps of the legislature, a sordid political mess. It was supposed to consolidate the educational reform in Saskatchewan, to bring together educational acts, to bring together in a cohesive fashion, all those parties interested in education and, of course, I refer to trustees, teachers, parents of the children themselves who receive the education itself. Instead of that, a generated confrontation. I will not review the speeches of second reading which indicated the three or four or five or six or seven or eight different positions of the government; how they responded to pressures from various communities but I do want to say to the minister that after taking a firm position on Bill No. 22, passing the legislation and with a firm resolve of the government to proceed and go forth, all of a sudden trustees and, I think, teachers to a degree, members of the Liberal opposition presented some very practical recommendations to the minister and of course he responded.

It was rather interesting and I don't give the minister all credit, it was rather interesting that the trustees attempted to arrange a discussion or a meeting with cabinet for weeks without any success whatsoever, until the revolt or until the protest on the steps of the Legislative Assembly. On that afternoon at that particular protest, they were invited to meet with the cabinet on the following Monday. Nevertheless, it is a credit to the minister that with that kind of response from the public and that kind of response from

the opposition, he sat back in his desk and with open ears he listened to some rather positive and constructive criticism from both groups. And I am going to say despite what people said about the Saskatchewan Trustees' Association and their ads in the newspaper and on the radio that their purpose was a political purpose and that was to bring to the attention of the public and the parents their ideas concerning the particular bill in question. I'm sure that just as the teachers expressed their reservations about Bill No. 43 (and I have all kinds of petitions in my own desk from members of the teaching profession) with absolute justification on their part in their best interests they felt that the trustees pursued their aspect but the minister did listen. It was rather interesting that he did reconstruct the bill and try to eliminate some of them. Members of the Conservative Party say yes and the amendments of the government and the Liberals are those of the trustees. That is true to a degree. For example, 'diligence' and 'quality' and 'determine' instead of 'authorize'. They are all recommendations put forth by the trustees that I'm sure the Minister of Education didn't have that much strong feelings but the vast majority of these things of quality come directly from my colleague, the member for Saskatoon, which indicate particularly on the controversial aspect of the board of reference.

I want to say to the minister there are two areas of concern that we have as yet and I would hope that the minister would listen to them with a degree of receptiveness as he has in the past because with the effort that he has made I would like to feel that I might now be in a position to support Bill No. 22 if he will listen to these two other problems with a degree, and really there is only one major one. The one that we have insisted upon is the appeal to the courts. Of course, he has limited the appeal to the Court of Queen's Bench, which we recommended almost to the very court itself, to facts of law rather than to the subject matter itself. I think really that a true appeal should not be limited to the facts of law. I am not a lawyer and I'm sure that my legal friends will express their opinions in this regard, but you have limited to facts of law rather than the subject itself.

The second thing and I want the minister perhaps to clarify for me is the one on section 221, 'The board of reference may' and of course the new section (c), 'make any additional order or recommendation with respect to any matter incidental to the order under clause (a) or (b),' and as you know this was the major concern of the Liberal opposition. That what happened that the board of reference was given such broad and unlimited powers that not only did it have to restrict its terms of reference to the subject of dismissal or the matter of dismissal but could take up any other factor within the school system itself. I want to know is this really restricting it to (a) and (b), the subject matter of termination or not, and I wish the minister would comment on that. But I have one other final comment to make that when we come, as you know that the amendments of the Liberal opposition and the member for Maple Creek have been tabled, they will be coming up for consideration; I would like the minister to consider very carefully that in introducing an appeal to the courts, which has been very, very close to the Liberals, hearts, as you know, not only in the Bill No. 22 but for example in the question of the Labour Relations Board and any other quasi-judicial body. I would hope that the minister might consider carefully, considering the fact that the appeal might be made in relation to the subject matter itself as well as the facts of law. So, Mr. Minister, that is all I have to say at this time. I am going to return it to the educational critic to pursue and see if we can't get done a clause by clause study.

Mr. W.H. Stodalka (Maple Creek): — Mr. Chairman, just a couple of comments after spending some time reading through all the amendments which the government has proposed which I believe are about 20 some amendments. I would like to offer a

comment on just a few of the amendments that we have a wee bit of concern about and also to congratulate the minister on some of the changes that he actually did make.

First and foremost, we were pleased to see that the section of 92 which commonly was referred to as the enabling section, the preamble, has not been reintroduced into the legislation but the section (x) which is introduced at the end of the section should provide boards with the necessary power that they need to deal with problems that come up at times and are not defined in the existing legislation. So we were pleased to see that that particular section has been amended to take care of that particular need.

I also noticed that when you moved into the amendments with regard to the duties and the responsibilities of the director of education there was the removal of the last portion which, in effect, requires the people working under the chief executive officer to report to the board through the chief executive officer. I understand the pressures that were exerted and where these pressures came from for this particular change. Really, I suppose, it can be summarized by saying that the change does, in effect, give more control to school boards to set up the apparatus that is necessary for this reporting procedure. My only hope is that there will be more than just the enabling section that they have as far as setting up these, that school boards will in fact set up the legislation defining the roles of each of the different offices within their jurisdiction. I am one of the people who happens to believe that you can't have two captains on the same ship and that the responsibility here now has been really given to that board and they are going to have to pick whom they want as their captain and, of course, the legislation indicates it shall be this chief executive officer. It is my hope that the boards will take the responsibility that has been given to them and outline the responsibilities of the various personnel that are working for them.

The other areas that I would like to comment on are the - one of the sections that came to my attention and the problem that we have with some of the central boards in larger towns in which you had four or five members representing the town and the rural areas were sort of divided into electoral districts. We used to elect the people by having a sort of a general election within the town and the rural area, of course, we had divided into these districts. Under Bill 22 we wouldn't have been able to do this but the section that's been added would now allow boards really a lot of flexibility in setting up the construction of their own central board.

Again another area I think that has been improved is the section on acceleration and deceleration of students. In the previous legislation to Bill 22 the responsibility fell solely on the teacher and the teacher could decide to accelerate and decelerate and there was no indication that the school had to become involved or the parents had to become involved. Certainly an important matter such as this, the more that are involved with these types of decisions the better. The amendment that has been introduced here now indicates that the teacher, if he is going to accelerate or decelerate students within the school system, has to do it within the guidelines of the school. Again that's an excellent change in the legislation.

I notice also that in moving from the previous bill, Bill 43 to Bill 22, when you are talking about security of teaching positions that if we look at the security of the principal, we can note that there has been quite a change. In the previous bill, Bill 43 I believe it was, the principal could appeal to a conciliation board if he felt his dismissal was not justified and there was an opportunity there under that mechanism for the administrator to prove that his dismissal was not justified. This new legislation has removed that opportunity for administrators or principals to, you might say, prove

again that the dismissal was not justified. I suppose that you have to say then that we really have a loss of job security here and the loss of an opportunity for a person to prove that he was unjustly dismissed in the case of the administrators.

We were pleased also to see in one of the recommendations in amendments that we made was the fact that the board of reference would be limited in what they could investigate to the reason for dismissal only. There was a clause in that particular one which had previously given the board the power to investigate any area that it deemed necessary and the removal of this particular section we think now will keep the board of reference hearing down to the issue at hand. This we also recognize as being a good change, something we had asked for and we are pleased that the minister accepted it.

We were though, as the member for Indian Head-Wolseley indicated, a bit disappointed in the fact that the appeal to the court system, we call it rather weak. I think that there are three things that you can refer to the court system and one of them was whether the board had exceeded its terms of reference or exceeded the areas for which it had responsibility or had actually exceeded the law under which it operates. Those are the three points. We had hoped that the reason for dismissal and the facts that have been gathered could also have been viewed by the court. So when it comes to this particular section you are going to be seeing us re-introducing the amendment that we felt should be introduced in this section. We feel that there should be just a little bit more teeth in it and we will be acting accordingly.

Again a small point because really I think originally it was a playing with words and that is the fact that the word ‘instruct’ has been replaced with the term ‘to teach diligently and faithfully’. While it may be small I think it really adds to the professionalism of teachers in general. I know there are more amendments that were made, probably more of a housekeeping nature and as we proceed through the bill we will be just offering comments on them. This summarizes our comments on the amendments that the minister has added.

There is one question I would like to ask. As we were sitting around last night and talking we began to wonder what that advertising campaign that the Department of Education undertook, the placing of the advertisements in all the daily newspapers in the province of Saskatchewan and I presume that there are about 100 or more of them. If I remember advertising rates correctly it was about $300 per page, at least that was what they were charging at the time of the election campaigns. I know that the Leader Post and the Star Phoenix, those two dailies charge about $800 per day per page, I believe was the rate. We ran a couple of advertisements in those papers. Would the minister just indicate to us members here, what was the total cost of the Department of Education’s advertising campaign relative to those advertisements that were placed in the papers during the course of their dispute with the Trustees’ Association?

Mr. Faris: — I believe the hon. member asked that question previously and at that time I invited him to put a question on the order paper and offered to answer it for him in detail. I am still awaiting the question.

Mr. Stodalka: — Why would we have to put it on the order paper rather than having it in detail? We wouldn’t want you to go through all the unnecessary work of having to tabulate these figures. I am sure that in your own mind you must have some idea of the amount of money that it cost. Would the minister just give sort of a ball park figure?

Mr. Faris: — I wouldn’t want to mislead the hon. member. I think if you will just put the

question on the order paper you will get a very detailed accurate answer.

Mr. Stodalka: — Well, if it takes a question on the order paper to get the answer from the minister you can be assured that the question will be on the order paper.

Section 1 agreed.

Section 2

Mr. Chairman: — We have amendments to section 2 by the hon. Mr. Faris. We amend section 2 of the printed bill by adding after 'year' in the last line of clause (ii), 'both dates inclusive'.

Amendment agreed.

Mr. Stodalka: — A question to the minister. When I read this here, I read the first section and the feeling I had there is that anybody over 18 years of age who met the residence requirements really had a vote in an election, in the jurisdiction. Why are these sections, (a), (b), (c) and (d) really necessary? Why can't they just be completely left out? To me, when I read this the section (d) would indicate, who does it disenfranchise in not having sections (a), (b), (c) and (d) in there?

Mr. Faris: — It is often an arbitrary decision which should or should not be in these matters. This is carried out from present law.

Mr. Stodalka: — I know it is the present law but again, would the minister indicate why it is essential? Who is entitled to vote as a result of this section who would not be able to vote if the section were not in it?

Mr. Faris: — As an effect in that regard it is simply a matter carrying over from present law. There are lots of decisions which might or might not be in that are completely arbitrary.

Mr. Lane (Sa-Su): — Mr. Chairman, I have a very brief comment and question to put to the minister. This was one of the many sections which had been raised in second reading debate and I can still recall very clearly, the smirk on the minister's face at the time that this was all nonsense and obviously some of it got through to his people and he has now had a change of heart and taken some of our comments to heart. I am pleased to see the amendment because it tightens the section up to some degree. An elector, being a person who is a Canadian citizen, full eighteen years of age, is pretty loose and I think that the business of adding, the ratepayer, as defined in subsequent sections of the act is a help.

There is still one part of that section that gives me some difficulty. I made some comments and was to some extent, facetious about them because I wanted to drive home the point that in subsection (o), sub 2, sub (b) an elector is the resident managing director of a corporation of a company and/or a representative of a company nominated by the director in writing. Now obviously the facetious part of my comment at that time was, did it include an incorporated bank in Nassau? Now that was as I say, simply to drive the . . . or Switzerland the member in charge of the Department of Northern Saskatchewan says and I agree. Does it or can it be tightened up further to indicate, because I am sure that this is what you have in mind, a corporation to carry on business

in that particular locale? In other words, if you leave it as loose as it is presently in the act, what is to prevent a director from a Manitoba company from coming in and voting or a director who carries on business only in the city of Regina when the vote in fact is taking place in Yorkton? I wonder if you have got any advice on this or whether you are considering tightening up that section?

Mr. Faris: — Well, you can argue about wording on a lot of these things 'til the cows come home but this is in present law and there have never been any difficulties with it. That is the advice of my officials.

Mr. Lane (Sa-Su): — Well, Mr. Chairman, that may very well be so but with the proliferation of corporations all over Canada, in fact all over the western world, that has happened in the last several years. I would think that you would want to have some fairly tight rules in case the matter should come up.

Now, simply to say that we had it loosely drafted before and it didn't give us any trouble is really not a defence. Tell me, under the present legislation, if, and it might be crucial because supposing some company was looking for a contract in a particular area and that corporation had an interest in who was elected to the local board because of the fact that they were going after a particular contract, they could come in from a completely outside jurisdiction and demand a right to vote? Would they, under these present rules, if they carry on business in some other fashion in Saskatchewan, have the right to come in and vote in that particular school district?

Mr. Faris: — The hon. member seems to be ignoring the word 'resident' in this whole section. In regard to the question that he raises further, there is a conflict of interest section which is intended to deal with the kind of problem he is suggesting.

Mr. Lane (Sa-Su): — Mr. Chairman, with respect, the word 'resident' comes up as an adjective to describe 'officer'. It doesn't come up to describe residency of the corporation or where it is carrying on work. In other words, the corporation may have a head office somewhere else and be registered here extraterritorially and because of that they have one resident person here to look after their affairs.

Now, again, I put the question to you. The word 'resident' is not an adjective reflecting a description of the corporation or the carrying on of its business. It is referring to an adjective to the word 'officer'.

Let me put the question to you again. Would this legislation, as you see it now, permit a corporation, incorporated in Saskatchewan under the laws of Saskatchewan, carry on business in the city of Moose Jaw, allow a person resident in the province of Saskatchewan to then vote in a matter in Lloydminster?

Mr. Faris: — No.

Mr. Lane (Sa-Su): — Would you explain, please, where the protection is to prevent him from doing so? I don't see it.

Mr. Faris: — We have never had any problem with this law for many, many years and as I say if the member wants to write a legal essay on each one of these points, it is entirely possible. The problem is if we had 10 lawyers we would 10 different legal essays and we have never had any problem with this whatsoever.

Mr. Lane (Sa-Su): — Well, Mr. Chairman, with respect, I can see that I am not going to get anywhere with this but I am not going to let is escape that easily.

I think it would have well behooved the minister to get some lawyers on the panel, who were drafting this particular piece of legislation, so that this kind of sloppy drafting did not occur. And to simply argue to this House that because we have never had any difficulty with it in the past and, therefore, we are going to leave it in this kind of fashion is not a reasonable excuse or not a reasonable defence.

I asked, very specifically, where the protection was in case that situation did arise and his answer was, 'We have never had problems with it in the past.' I simply want that to go on the record. I assume that the minister is not going to do anything to correct it.

Section 2 amended agreed.

Section 3 to 17 agreed.

Section 18 as amended agreed.

Section 19

Mr. G.H. Penner (Saskatoon Eastview): — Mr. Chairman, I take it that you know the amendment is simply to bear so that when the act comes into force, certain things will have been done before the act comes into force to allow the provisions of the act to be carried out. The other thing that we are going to need in order to be able to undertake that or that school boards are going to need, is the regulations. I wonder if the minister would indicate to the House now, the kind of timetable he is looking at. Once the bill has been passed, the coming into force is obviously going to be some time down the road. There are obviously things the boards are going to have to do before it can come into force and one of the things the boards are going to have to have is some indication of what the regulations are. I wonder if the minister would outline some kind of a timetable for us now.

Mr. Faris: — Yes, that is a very good question because the regulations are very important. The staff is working, beginning their work on regulations now. We hope by late summer to be able to enter into a consultative stage with the various parties interested in education, the SSTA, the STF and so on. We would like to get some consultative process built up with them so that it is clear that when there is a certain intention, that it is in fact understood by all and that is how it will operate. So it is going to take us a little longer to operate in that manner. That has not always been done in the past, but we do want to do that with these regulations.

Mr. Stodalka: — Another question related to this, the timing. Has the minister any indication as to when he thinks that possibly the act will be coming into effect? Are you going to bring it all into effect at one date? Or are you going to bring some of the parts into effect? What sort of a time frame are we looking as to when this act will replace the old School Act?

Mr. Faris: — Sorry. That is not certain at this time. Certainly it is under discussion in the department but we can't say with certainty . . .

Mr. Stodalka: — I am just wondering if you could be just a little more precise than that. There are a lot of concerns for school boards you know. For instance, the whole

section on boards of reference and all these types of things. I think the people would like to know, are we talking in the fall or are we talking next January?

Mr. Faris: — I think, in general, we could say that we would like to have it in place by January 1.

Section 19 as amended agreed.

Section 20 agreed.

Section 21

Mr. Stodalka: — A question. Why was the amendment necessary?

An Hon. Member: — Because it was in the old act.

Mr. Faris: — this was amended for the case of a school district which would become a division and does not contain a separate school district. We had to make this provision. I understand Pense is an example of this kind. There are not very many situations like this.

Mr. Penner: — Would you give that example again?

Mr. Faris: — Pense. The Pense school district is an example.

Section 22 as amended agreed.

Sections 23 to 34 agreed.

Section 35

Mr. Chairman: — We have an amendment to section 35. We amend subsection (3) of section 35 of the printed bill by striking our 'or' in the last line of clause (b).

Amendment agreed.

Mr. Penner: — I would just like to make a comment if I may, Mr. Chairman, with regard to section 35. In my opinion section 35 as it is presented here is a significant improvement over the present legislation. Particularly in so far as there was a considerable difference between the way elected people at the municipal level were treated with regard to conflict of interest and the way school board members were treated with regard to conflict of interest. The legislation now in place is very restrictive, almost implies that trustees don't have any kind of responsible attitude at all about ways in which as members of school boards and being involved in the business community that they can be involved one with the other without there being a danger of conflict of interest. As I understand and I would invite the minister to comment to be sure that I am correct, subsection (4) of section 35 really provides scope to this section and means that where an elected trustee excuses himself from participation in the decision-making that he, in fact, as a member of the business community could enter into a contract with a school board to provide services that are required by that board. Is my interpretation of that correct?

Section 35 as amended agreed.

Sections 36 to 42 agreed.

Section 43

Mr. Chairman: — We have an amendment here on the same section from two members. I am going to take the minister's amendment first this time and I will try to alternate when this occurs in the procedure.

Amend section 43 of the printed bill by inserting after 'of' where it appears for the third time in the second line the following, 'or an owner of assessable or real property in'.

Mr. Penner: — Mr. Chairman, I hate to be overly complimentary, but I must say to the minister and to his staff that I am pleased to see this amendment here. It is identical to the amendment which we had indicated in second reading that we felt ought to go into the bill. What it really does is parallel and I think we have said this before, but it parallels the provision now for people to be on school boards and people who are elected to RM councils. It really means that a number of very valuable, worthwhile, hardworking, industrious trustees in Saskatchewan are going to be able to continue to be trustees whereas if this amendment had not been included there would be a significant number of school board members in Saskatchewan who would have ipso factor lost their seats.

I think it is recognition that what is really important in this kind of an election is whether or not the individual has the confidence of the people whom he represents. There are all kinds of circumstances in a person's career where he might, in fact, move out of the district and therefore lose the residency aspect and yet retain a ratepayer designation. There are all kinds of examples that I am sure the minister is aware of where school trustees have been elected by acclamation because of the confidence they hold with the people in that community even though they no longer live there. As I say, we are pleased to see the amendment and we are pleased to see that the wording of the minister's amendment is identical to what we had suggested.

Mr. Lane (Sa-Su): — Mr. Chairman, I would like to make a comment as well. I'm afraid I can't share the view just expressed by the learned member for Eastview. The minister will recall that in second reading I raised this matter as well. At the time I was totally baffled by the wording of this section and I thought at that time the section was backwards and I still do. But perhaps the minister could explain to me what the intent of the section is. I had assumed that what he wanted to say in this section, what this act intended under Section 43 to say that a person who is eligible as an elector in the district would thereby gain eligibility to be nominated as a candidate. Well, the way it reads and quite frankly I expected an amendment but I didn't quite expect the amendment that we got, the way it reads at the present time is that having once been nominated as a candidate that then you obtain eligibility as an elector and somehow I am having trouble getting that section into the framework of what I think he is trying to accomplish. Now perhaps the minister could explain to me, maybe I'm wrong in what he is attempting to accomplish by the section.

Mr. Faris: — Well, I can't explain how differences arise between lawyers but I can only say that four different legal counsel were involved in this process of drafting here and if this member reads it one way there are certainly a lot of learned associates of his who read it another way and we are taking their advice.

Mr. Lane (Sa-Su): — Mr. Chairman, what I had at tempted to gain from the member was

an explanation of what he intended to accomplish by this section. That's all I want. What does this section accomplish as far as you are concerned?

Mr. Faris: — Well, I don't have any difficulty in understanding it. It is very clear. Read the act.

Mr. Lane (Sa-Su): — Mr. Chairman, I see that the minister is playing games again. What I am asking you is quite simply this. Is your interpretation of this section or what your officials tell you, that by reason of being elected or nominated as a candidate you thereby become automatically an elector as well in the district or are you saying that by reason of having been an elector you are eligible as a candidate? Which one of those is it? You could indeed be a trustee but you couldn't vote for yourself.

Mr. Faris: — That's quite true.

Mr. Lane (Sa-Su): — Perhaps we could pursue that a little further. You are saying, then that by virtue of the fact that you have been nominated that qualifies you as an elector? Is that correct? By virtue of being an elector you are qualified as a potential and eligible person to run.

Mr. Faris: — I will explain it to you.

Mr. Penner: — I will try and explain it to the minister. Maybe some day I'll have the opportunity to be the minister. As I understand the section and I would invite the minister to correct me if I'm wrong, what this section does is allow two ways for a person to be a trustee. (a) He may be a trustee if he is an elector and an elector is defined in section 2 as being a person who is 18 years of age and having had residency for X period of time, six months or whatever. The amendment also allows that a person may be a trustee or may run to be elected as a trustee even though he is not an elector if he meets the ratepayer requirements, that is has property in the division. In that instance he would, of course, not have eligibility to vote because he is outside the voting area but he would have the opportunity to put his name forward as a trustee.

Mr. Lane (Sa-Su): — Mr. Chairman, I gather by the nod from the minister that is what he - you endorsed that - that is what you tried to accomplish?

Mr. Faris: — The member for Eastview understands the section.

Mr. Lane (Sa-Su): — All right then, Mr. Chairman, here is the difficulty with it. If that is the object which was the minister was attempting to get at. Now what it reads, 'each person nominated as a candidate for an election as a member of a board of education, shall be an elector.' In other words, I could now go up to Melville, get myself nominated and then be entitled to vote because that is what it says, if you are nominated as a candidate you shall be an elector.

Now, why not take it the other way around and say this, 'a person who is an elector or an owner of assessable or real property in, shall be entitled to be nominated as a candidate for the board of education'. Now, that way would be very perfectly straightforward and very plain. There would be no difficulty in the interpretation of it.

Mr. Faris: — Well, the hon. member is the only person I know who is having difficulty with interpretation. As I say we had four legal counsel look over this and they all

understand it clearly.

Mr. Lane (Sa-Su): — Mr. Chairman, let me drive this point home because this is going to come up in the courts later on and I want to be clearly on record to be able to direct the minister back to this situation and show him how we attempted at that time to point it out to him, but how he sloughed it off and was very arrogant and pompous about his position.

What the section says right now is, 'each person nominated as a candidate for election as a member of a board of education shall be an elector,' Now what's going to happen later on is that someone who wishes to become an elector in a division can do so by merely having himself nominated as a candidate that I say could very easily be cleared up and be very straightforward if a section reads as follows. Now I'd like the minister to listen to this and see if there's any difficulty with this kind of wording of a section.

> Persons who are electors by virtue of this act, etc., or owners of real or assessable property shall be entitled to be candidates for election as members of the board of education.

Now, that's straightforward. There's no difficulty with interpretation where he could consider turning it around or else there's no possibility of misinterpretation later on.

Mr. Faris: — We see no possibility of misinterpretation with the present wording. No difficulties are likely to arise.

Section 43 as amended agreed.

Section 44 agreed.

Sections 45 to 90 agreed.

Section 91

Mr. Chairman: — We have an amendment by Mr. Stodalka to amend section 91 of the printed bill by:

> Striking out 'authorize' in the first line of clause (j) and substituting 'determine'.

Mr. Stodalka: — If the amendment isn't agreed, just one word I guess we are fighting here, aren't we, 'authorize' and 'determine'. I would like to hear the minister's argument as to why he would prefer the word 'authorize' to the word 'determine'.

Mr. Faris: — Well, we discussed this with the SSGA officials. Their legal counsel advised them and us that in law 'authorize' and 'determine' mean exactly the same thing. This wasn't really the point of their contention here. What they have is the concern about the word 'basic' and we agreed to strike that out and out understanding is that everyone is satisfied with that change.

Mr. Stodalka: — So then there isn't any argument. Really what you are saying is we have 'determine' as well as 'authorize' and there wouldn't be any difference. Is that what you are saying? So then why not accept 'determine'?

Mr. Faris: — Well, then why accept ‘determine’. My advice is that ‘authorize’ in fact if anything is a little wider term and we intend to stick with that.

Amendment negatived.

Mr. Chairman: — Now, we have a second amendment by the Hon. Mr. Faris:

> We amend section 91 of the printed bill by striking out ‘basic’ in the second line of clause (j).

Is that amendment agreed?

Mr. Lane (Sa-Su): — Mr. Chairman, if I might. I think in this respect we have to compliment the minister. That clears up a lot of problems. I think that that word was a key. As we pointed out, as the Progressive Conservative caucus pointed out in second reading, that was the basics only being allowed subject to discretionary powers exercised by the minister. It really didn’t leave any flexibility in terms of local programming to provide for such things, for example, as a basic psychology program, unless the word ‘basic’ was so broad as to include basics in all areas and it would have been some difficulty and I congratulate the minister for accepting that change and for striking the word out. I am sure that many people will be happy with this.

Mr. Penner: — Mr. Chairman, before we leave 91 I have some question that I want to direct to the minister with regard to clause (c).

> Subject to the other provisions of this act, approve administrative procedures pertaining to the internal organization, management and supervision of the schools.

That part I find to be perfectly in order, but in the later part:

> But educational supervision authorized by the board shall be subject to the approval of the department.

Now, I don’t know what interpretation the minister has for that particular section. I put to the minister that it is possible to interpret that, that virtually everything that a board does, is related to educational supervision, because the nature of the animal. I am asking the minister, is it his intention that every time a board adopts any kind of a procedure of any sort that relates to educational supervision, that the board is expected to obtain ministerial approval before it can put that into effect?

After asking that question, I want to ask the minister to contemplate what boards are going to have to do in order to comply with this act with regard to policy and administrative manuals, for example, and the horrendous amount of paper that I could see flowing to the department if this particular portion of 8 is interpreted literally. I wonder if the minister would care to comment about what the department’s intent is with regard to that portion.

Mr. Faris: — Yes, this is intended to be taken in a very general rather than narrow or literal way. There is no doubt about it that the constitutional responsibility for education lies with the legislature of the province and this is simply intended to have that sort of general focus. There may be specific instances when the department, on behalf of the legislature of the province, will have to intervene in a particular situation

and so this sort of general constitutional responsibility has to be spelled out in this way.

Mr. Penner: — It seems to me that there are other sections in this act which give authorization to the minister and to the department where authorization is required and none of us would argue that there are many places where ministerial or departmental approval are required. There are many sections of the act where there is no reference specifically to authorization being required. I say to the minister that by leaving that in, it leaves the department, it seems to me, open to a position that in effect it's really not going to be able to cope with it and because ministerial authorization and departmental authorization are clear in other sections that relate to the entire legislation, we would be better off to strike that portion from section (c).

Mr. Faris: — The concern here is with the standards, that standards be maintained. The quality of instruction in general still remains a constitutional responsibility with the legislature of the province. We don't see this as saying that this sort of approval is going to be necessary; it hasn't been in the past and we don't see it in that light in the future but that sort of overriding responsibility has to be there.

Mr. Stodalka: — Just a question related to what the member for Saskatoon Eastview has said. Is it by design really in part of the legislation so that, for instance, a program for supervision of teachers could be outlined and indicated by the Department of Education? You have to report periodically, so many written reports and such a type of supervision. This would seem to me to be the section that would take some power away from school boards in which they could decide on their own supervision patterns, as to how they want to supervise their own school system and you could superimpose the supervision system on the board by use of this particular regulation. Could this not happen?

Mr. Faris: — No, it's not a matter of superimposing a system so much as the responsibility to see that there is a system.

Mr. Stodalka: — Just finally though, it is possible that one could be superimposed if the minister so desired, right?

Mr. Faris: — The term which is used here, the department approves. The department's role is approval of what someone else implements.

Mr. Penner: — Well, maybe I can clarify. It says, 'but educational supervision authorized by the board.' You see it pulls that out as distinct and apart from procedures pertaining to the internal organization management and supervision of the schools but educational supervision authorized by the board shall be subject to the approval of the department. Now, is the department's intent that every position put forward by a board with regard to educational supervision must have the approval of the department? But then I submit to the minister that this section is misplaced and that the overall and overriding responsibility of the minister and the department are already there in the act and that by pulling this out, you are leaving boards, if they are going to comply with the law, with no possible alternative but to submit every piece of paper to the department that has to do with educational supervision. We've got no choice. School boards will have no choice.

Mr. Faris: — I don't agree with that line of thought whatsoever. In the past the department directly had these responsibilities for educational supervision. Now, of course, the locally employed superintendents - that's been delegated to the school

boards but the overlying or underlying responsibility remains with the department and there is a role for approval.

Mr. Penner: — I'm going to ask the minister and I don't know to what extent he and his department have looked at this section. I certainly have not raised it with the department previously but I'm wondering how the minister would react if we just leave section 91. I would invite the minister to discuss the implications of what I said with his officials if he prefers to alter it, that he do that through amendment or if he prefers to give the assurance that that is not the intent, that he do that and I wonder how he would react to that position?

Mr. Faris: — My officials of course have discussed this on many occasions and they see no difficulties with this whatsoever and the kinds of problems you are raising they don't see as being within the intent of this section.

Mr. Lane (Sa-Su): — Mr. Chairman, if I might deal jointly, Mr. Minister, with sections 91 and 92, since we are on section 91. No doubt the officials have informed you that an institution, such as the local school board of education which is created by statute, is an artificially legally created body which has only those powers granted to it by a competent legislature to give those powers to them. Now that being the case, section 91 says 'the board of education shall' and it goes on to list certain things, then to section 92, 'the board of education may.' In those sections, if you look at them carefully section by section, they pretty specifically set out what a board 'can' what a board 'shall' or what a board 'may do' and there really isn't a kind of overall reference to their powers except if you consider section 91(a) 'administer and manage the educational affairs of the school division in accordance with the intent of this Act and regulations.' Now, something that has been brought to our attention is, and here is an example e. Supposing a board of education after this act is in place, is sued by a local parent for negligence, which particular section do you refer to here, to give them the power to do that? The concern has been raised and I would like to ask you how you would . . .

Mr. Faris: — If the hon. member would look at the sheet of amendments, you will find amendment to 92(a) and 92(x).

Mr. Penner: — I want to go back to 91(c) again, because I really don't understand the purpose of that last line of (c), when (c) begins by saying, 'subject to the other provisions of this Act' and if the minister is not prepared to change it, is he prepared to give us the assurance that it is not the intent of the department to have school boards put to the department for their authorization, because that is what it asks for, subject to the approval of the development, every piece of policy that it develops relating to educational supervision? Give us that assurance.

Mr. Faris: — No, no more than they do now. There are certain approval procedures in certain areas now. If that is what your concern is.

Section 91 agreed.

Section 92

Mr. Stodalka: — Mr. Chairman, in lieu of the fact that the minister has added section (x) which in effect, tells the same thing as the amendment we had proposed, I would like to withdraw that particular amendment.

Section 92 as amended agreed.

Sections 93 to 106 agreed.

Section 107

Mr. Chairman: — We have an amendment to section 107 by the minister. That we strike out section 107 of the printed bill and substitute the following 107. 'The director shall be designated as the chief executive officer of the board of education'.

Mr. Penner: — Mr. Chairman, I have mixed feelings quite frankly about 107 because I think it is arguable that allowing local boards to make their own decisions with regard to 107 is fair and reasonable. My mixed feeling comes with the recognition of the CEO concept that if in fact that is what you have got them reporting ipso facto is going to go that route. That section that says: — 'And all administrative and supervisory offices shall be responsible to the board through the director for the performance of their duties assigned to them by the Board', is something that must naturally follow if the Director of Education is the chief executive officer.

The minister smiles and I appreciate the smile because as he does, I understand the small 'p' politics that were a part of this amendment, at least I think I do. It is an understanding and a throwback to an era in education in Saskatchewan that is largely behind us because of certain changes that have taken place with regard to locally employed superintendents and departmentally employed superintendents who were not employed by school boards. I wish in some respects I did not understand it as well as I do, I'd have less difficulty arguing the point. I really feel that 107 as it existed in Bill 22, in fact, was pretty realistic in the way it recognized that things are going to have to operate at the local level.

Mr. Stodalka: — Just to offer a further comment - in my initial remarks, I think I indicated one of the problems that we have is, if we have two people and nobody is defined as the chief executive officer, I wonder if the minister would indicate that certainly by removal of this particular section he is not indicating that he himself would believe that there shouldn't be one person who is really responsible for reporting to the board. Do you not feel that it is administratively sound to have one person who really is, in effect, the chief executive officer and who should be reporting to the board?

Mr. Faris: — I think the section as we are proposing to amend it makes it clear that there will be one chief executive officer of the board of education. I think that is the important point. The point which became unclear due to the wording in the section which has been amended was whether or not for instance the board could have the secretary treasurer report to them on different perhaps financial matters and so on. It was our understanding at all times that, yes, a board could make that sort of decision. I think really 107 has to be read in the context of 108 and 109 where the board has the responsibility for setting out the various duties and so on. Quite clearly, there is one more example, giving more responsibility to the board of education to clarify this sort of thing but within the context of moving the definition of chief executive officer from regulations into the act, which is a strengthening of that concept.

Section 107 as amended agreed.

Sections 108 to 118 agreed.

Sections 119 - 124 agreed.

Sections 125 and 126 as amended, agreed.

Sections 127 to 142 agreed.

Section 143

Mr. G.N. Wipf (Prince Albert-Duck Lake): — Mr. Minister, in talking with some teachers, they felt that this was too generalized and they would like some more clarification on this. Could you just explain in your words, section 143 in a little more general terms?

Mr. Faris: — I am not clear on the member's question. If it is whether this is too general, whether it is too general a statement, then I think it should be read in the context of its first line which is subject to sections 153, 154 and 156 which narrow it down somewhat.

Section 143 agreed.

Section 144

Mr. Wipf: — One question on this, Mr. Minister. Will this apply to separate and private schools also?

Mr. Faris: — Public and separate but not private.

Mr. Penner: — A question to the minister. Is it the intent of this section that fees, students fees, are no longer to be accepted and I would take first of all, any kinds of fees for school programming, and then the matter of caution fees for example, that many schools and school districts use with regard to text books? Is it the intent that these would no longer be applicable?

Mr. Faris: — I think if the member will read subsection (3). There is talks about fees pertaining to special projects, special supplies and equipment and so on, not ordinarily furnished under the policies of the board. Is that . . .

Mr. Penner: — Well, caution fees, for your information, are very often applied with secondary students and relate to text books. Now one would have to agree that text books are ordinarily supplied. It is part of the program and they are supplied. Many schools will have students pay a caution fee against the abuse of or indiscriminate loss of those books. Now is it the intent that those kinds of caution fees that by and large have been used and have been reasonably accepted are no longer to be levied by schools and again, I'm speaking specifically about secondary students?

Mr. Faris: — If the member will look back at section 92(t) and the powers of the boards:

> make regulations providing for the collection from any or all of the pupils of a reasonable sum for the purposes of recovery of inadvertent or accidental damage or loss of school property . . .

Mr. Penner: — That covers it. Thank you.

Section 144 agreed.

Section 145 and 146 agreed.

Section 147

Mr. Wipf: — Mr. Chairman, Mr. Minister, in the third line there it says:

> shall be entitled to immediate access to procedures established by the board of education.

What are these procedures here that are mentioned? Are these some of them that are being developed now by your people or are they established now?

Mr. Faris: — The section reads, the hon. member will see that it says, 'These procedures are established by the board of education.' So they're not ours. They are those to be established by the board of education.

Section 147 agreed.

Section 148

Mr. Wipf: — Mr. Minister, in the words 'any person' does that also include the parents?

Mr. Faris: — I think it would if they established a master-servant relationship, I'm informed.

Section 148 agreed.

Section 149

Mr. Wipf: — In this 149, a child being held out of school, the parent or guardian could be fined $100 (or whatever it is) without permission from the principal. In any area where there are rural high school boys and they're hauled out of school in the morning because of harvest time or something or the parent keeps them out to work on the farm, is a parent liable for a $100 fine by keeping his child out of school to help him on the farm, is that it?

Mr. Faris: — I shall say, no. I wonder where you got those questions from.

Mr. Stodalka: — Mr. Chairman, I wonder if it might be permissible if we just go back and take a look at that section 148 which really indicates that if a farmer keeps his son home from school during school hours he can be fined $100. I don't know if we shouldn't be doing something about that rather than passing that and putting it into existing legislation?

Mr. Faris: — The employment relationship there - I really don't know who's going to lay charges in a case like this.

Mr. Stodalka: — Well, it might be done - those charges laid.

Mr. Faris: — If the board of education wanted to lay the charges it's theoretically possible.

Mr. Stodalka: — That's why I'm a little afraid of the fact that it's in here and if we shouldn't do something, you know, during the course of going through these amendments to remove that possibility. There are other sections of the act that take care of any problems with regard to truancy.

Mr. MacDonald: — Mr. Minister, just a quick comment on that. I think in Saskatchewan, a rural province particularly with the great deal of difficulty in getting farm labour that many, many sons of farmers in very critical times of the year like harvesting and seeding do take some time off school but I think most farmers are very conscious of the limitations that should be placed on their children. But don't you think that this is a rather serious thing to put this kind of power in the act, that a parent can be charged for keeping his son home on the farm to help him? As we understand it, is that a correct interpretation?

Mr. Faris: — Well, I'm informed that it's an offence now under The School Attendance Act. It has been for many years. In terms of a practical problem, it isn't one because people don't pursue that course of action. But it is an offence now under The School Attendance Act.

Mr. Penner: — Well, Mr. Minister, it is an offence now if the school board does not provide separate outdoor privies for kids who attend the school and it is an offence if school boards today don't provide stabling facilities for the horses. I really don't think that argument is good enough. One of the things we had the great privilege of in education over the years is the fact that our law has been spread all over creation in 15 different acts; nobody knew what was anywhere. One of the goals in having this particular bill come forward was to consolidate it. Nobody knew about that other provision because nobody knew where it was. Now people are going to have ready access to the law, as they should. I really think it might be worthwhile for the minister to table 140 or to let 148 lie, have his officials maybe redraft it and bring it back in because it's not likely we are going to finish up today.

Mr. Faris: — Well there is a certain problem here and that is if we were allowed, neighbours for instance, to hire the same child, I say we have a problem. We are talking about an employment relationship and the ordinary father-son relationship would not be seen, as such, I'm sure. But if we are going to allow farmers to hire children and keep them out of school, then I say we've got a problem. In terms of the employment relationship, that's surely not the way you would ordinarily discuss the relationship between a father and his son.

Mr. Wipf: — Mr. Minister, there is on the farm in harvest season, say you are getting into a bad fall and there is a pooling of neighbours and the neighbour wants to hire, say if they're switching help - somebody's children to go over and help their neighbour, then come back and help their father. This is going to cause a problem, I believe, I feel, in the fall time. Maybe this should be looked into and rewritten or held for a while.

Section 148 to 151 agreed.

Section 152

Mr. Wipf: — A question on this, Mr. Minister. Does the student have a right for referral

to a committee in cases where there is a dispute between the pupil and the school board?

Mr. Faris: — Would you repeat that?

Mr. Wipf: — Does a student have a right for referral to a committee in cases of a dispute between the pupil and the school board?

Mr. Faris: — Yes, if there is a problem in the school. You said with the school board? You added that, did you? If there is a problem in the school . . . Are you referring to 152, sub 1? The principal and staff can refer the case of the child to a committee but are you asking whether the child can? The answer is no.

Mr. Wipf: — The student does not have the same right accorded to him in any disputes that arise between a teacher and a board then. The pupil doesn't have the same rights as the teacher has.

Section 152 agreed.

Sections 153 to 159 agreed.

Section 160

Mr. Wipf: — One question on this. Would the students' counsellor still be the unit secretary?

Mr. Faris: — Yes.

Mr. Wipf: — They can appoint whoever they want on this then?

Mr. Faris: — Yes.

Section 160 agreed.

Sections 161 to 163 agreed.

Section 164

Mr. Wipf: — In 1(c) there, what is meant by 'such other periods'?

Mr. Faris: — An example there is the possibility of a trimester system.

Section 164 agreed.

Section 165

Mr. Wipf: — If the school day is lengthened, Mr. Minister, would additional pay be provided for the teachers or would that be negotiated if your school day is lengthened?

Mr. Faris: — This has to do with the length the school building is open, not with the hours of work of the teacher.

Section 165 agreed.

Section 166 agreed.

Section 167

Mr. Wipf: — Mr. Minister, in 1(b) is it possible that according to 166(3) school could beheld on a Saturday following the five-day spring break?

Mr. Faris: — Would you repeat that please?

Mr. Wipf: — Can school be held on a Saturday? Is it possible following the five-day spring break?

Mr. Faris: — That is possible.

Mr. Wipf: — Spring vacation could also be cancelled under 167?

Mr. Faris: — With special approval of the minister that would be possible.

Section 167 agreed.

Section 168

Mr. Wipf: — One question on this. From this 168, could there be a reduction in pay or an increased workload with no pay increase?

Mr. Faris: — That has nothing to do with this section.

Section 168 agreed.

Section 169

Mr. Chairman: — We have an amendment by Hon. Mr. Faris to amend section 169 of the printed bill by inserting after ‘teacher’ in the third line of subsection (2) ‘but subject to the policies of the school’.

Mr. Wipf: — Mr. Minister, what happens if there are no kindergartens in these schools?

Mr. Faris: — Nothing.

Mr. Wipf: — One other question on this. Does this mean that no student could go through a division in less than three years?

Mr. Faris: — No.

Section 169 as amended agreed.

Sections 170 to 173 agreed.

Section 174

Mr. Penner: — Mr. Chairman, I have a comment I want to make on this one. There are

still left in Saskatchewan a number of one-room schools. They exist in Hutterite colonies, for example, and the exist elsewhere.

An Hon. Member: — Do they have a principal?

Mr. Penner: — Not very many of them. But as I read this section it means that where I have a one room school or a one teacher school in my school jurisdiction I must designate that individual as a principal and then I must pay that individual as a principal. I am asking the minister whether that interpretation is correct.

An Hon. Member: — All our Hutterite teachers become principals. Give them extra money.

Mr. Faris: — No.

Mr. Penner: — My interpretation is wrong.

Mr. Faris: — That's what my officials say, yes.

Mr. Penner: — Then it ought to be reworded. Because there is only one way to interpret this and that is that the staff of each school shall consist of a principal and such number of teachers. If I'm wrong and I hope I am, that is that's not what you intend, then again I would invite you to provide us with a change in wording to do what you intend us to do.

Mr. Faris: — The problem is in regard to this that that is not a matter of law but of a matter of a bargaining agreement, who shall receive additional pay and under what circumstances and so on.

Mr. Stodalka: — The question in the present agreement, under the present agreement that exists would not then the person of the one room school be classified as a principal and therefore the amount of money he or she receives would have to be based as if the person were the principal. All remuneration would have to be paid on that basis.

Mr. Faris: — My officials tell me under the present agreement the answer would be no.

Mr. Penner: — Well, under the present agreement is principal defined to mean the person in charge of a school where there is more than one teacher?

Mr. Faris: — We would have to go back and get a copy of the agreement to spell it out specifically to you but my officials tell me that they believe under the present agreement that the answer would be no.

Mr. Penner: — I don't have a copy of the agreement here either but I would sure like to have a look at it before we move on this section. Would the minister agree that we just hold this section in abeyance until we have had an opportunity to assess the definition of principal in the collective bargaining agreement? I am not even sure then that I would be happy to accept the wording as we've got it here but could we leave it for now and come back to it?

Mr. Faris: — Agreed.

Mr. Lane (Sa-Su): — The point could simply be cleared off by adding, it shall consist of a principal and/or such a number of teachers. What would be wrong with that?

Section 174 stood.

Section 175

Mr. Wipf: — 175(f) it says, 'co-operate with the universities in programs for the education and training of teachers'. What type of co-operation is required here, Mr. Minister? Some of the principals I've talked to said they often have nothing to say in this decision-making process. What is expected of their co-operation?

Mr. Faris: — Oh, that's covered in the first part which is subject to the stated policy of the board of education in the regulations. They will be under that direction.

Section 175 agreed.

Sections 176 to 181 agreed.

Section 182

Mr. Wipf: — One question here, Mr. Minister. The display of flags outside and inside the school, does that mean just one flag in the school or a flag in each classroom?

Mr. Faris: — It doesn't say.

Mr. Wipf: — Do I take this to mean just one flag in the school or does it mean a flag in each classroom or a flag in the library or what?

Mr. Faris: — The section would indicate at least one flag within the school.

Section 182 agreed.

Sections 183 to 201 agreed.

Section 202

Mr. Chairman: — We have an amendment to section 202 by the Hon. Mr. Faris:

> to amend subsection (1) of section 202 by inserting after 'board' in the third line of 'education.'

Section 202 as amended agreed.

Section 203 to 205 agreed.

Section 206

Mr. Chairman: — We have an amendment by the Hon. Mr. Faris that we amend 206 of the printed bill:

> by striking out the last three lines of clause (a) and substituting the following:

request of the teacher, provide to the teacher within five days of the teacher termination, a written notice of the termination and each such notice shall set out the reason or reasons for the termination.

Mr. Wipf: — One question, Mr. Minister. In line three and four, Mr. Minister, in section (a), I would like to know what your legal interpretation of 'to obey any lawful order of the board' is.

Mr. Faris: — Yes, that is the historic wording. I am sure that there will be precedents built on that but it is simply that the teacher must not operate in open violation of the policy of the board of education.

Section 206 as amended agreed.

Section 207 to 211 agreed.

Section 212

Mr. Chairman: — We have an amendment by the Hon. Mr. Faris to amend section 212 of the printed bill:

(a) by striking out subsection (2) in the first line of subsection (1) and substituting subsections (2) and (3), and

(b) by adding after subsection (2), the following subsection (3):

nothing in this section applies to a case mentioned in subsection (1) of section 211.

Section 212 as amended agreed.

Section 213 agreed.

Section 214

Mr. Chairman: — An amendment by the minister. Remit section 214 of the printed bill by (a) by striking out clause (c) of subsection (1) and substituting the following:

(c) one person nominated jointly by the teacher and the board of education or failing such joint nomination one person nominated in accordance with subsection (3) who shall be chairman of the board of reference.

(b) by striking out clause (a) or (b) in the 11th line of subsection (1) and substituting this subsection.

By striking out (c) by striking out subsection (2) and substituting the following:

(2) nominations made pursuant to subsection (1) shall be made to the minister within 10 days after receipt the receipt by him of application for an investigation and a person or persons who are nominated at that time shall, in addition to any person who may subsequently be nominated pursuant to

subsection (3) constitute the board of reference and shall exercise the powers of the board, and

(b) by adding after subsection (2) the following subsection (3) where no joint nominations received by the minister pursuant to clause (c) of subsection (1) within the 10 day period mentioned in subsection (2), the minister shall notify a judge of the district court who shall within five days of such notification, nominate a person who shall be chairman of the board of reference.

Mr. Stodalka: — A question to the minister. Will the minister please outline what was the reason for changing the existing section of this section?

Mr. Faris: — Yes, the intention there is simply to make sure that if there is a failure on the part of the teacher or the board of education to nominate people, that there indeed will be a chairman, to constitute the board.

Section 214 as amended agreed.

Section 215 and 216 agreed.

Section 217

Mr. Chairman: — 217, scope of investigation. We have an amendment by Mr. Stodalka. We take this one first this time. We amend section 217 of the printed bill by striking out: — 'Unless the board of reference otherwise determines' in the second and third lines. Is the amendment agreed?

Mr. Stodalka: — Mr. Chairman, the reasons for introducing this particular amendment is of course to limit the scope of the investigation of the boards that we could keep it down to the reason for dismissal only. We think it is a good amendment and I think the minister has accepted it.

Section 217 as amended agreed.

Section 218

Mr. Stodalka: — Mr. Minister, just a comment on 218 before saying it is agreed. The one thing that I have reservations about in the board of reference is the location of the board of reference hearings. I don't know who is going to finally select the location as to where a board of reference hearings are going to be held. But it is my feeling from having been close to one board of reference earlier, an arbitration board, being president of a second arbitration board hearing; the one being held in the local community and the second one being held in the district court house, but I had a very strong feeling after being around those two hearings that the one that was removed from the community was a much superior one. The one that took place in the local community turned out to be almost a local side show, which was held in the Elks Hall and went on with 200 people or 300 people attending the hearings for a period of a couple of days, before such time as the arbitration board arrived at a decision. It really was I suppose you might say, the highlight of the community life within the town for about two or three days and it did an extremely large amount of what I would like to say,

damage to the school system at that time. As I read through this section on the board of reference, I had the feeling that possibly there should have been some place, that there was indication that the hearing itself, would be conducted within, say the district court chambers within the area, rather than to take place in the community in which there was a dispute. It was my own personal feeling that education would be better served if the arbitration hearing or board of reference hearing was taken away from the community in which there was a dispute. I don't know how this could be accomplished, but I would like to hear the minister's comments. Are you going to be the person who chooses the location or will it be the board? Possibly, could there be some direction from the minister when such arbitration hearings are held?

Mr. Faris: — Yes. This is a matter left up to the board of reference itself, 215(2) sort of embodies that in law. But certainly if they were to ask the advice of the department in regard to any particular situation, I am sure the department would give it advice.

Mr. Stodalka: — There are two ways that you could probably do this I suppose. One would be to direct whoever was chosen as the chairman and indicate to him that that might be a preferable position, or the second way you might handle it - you are going to be making regulations concerning this act and would you not at least consider that one of the things when you re making regulations, would be to consider this point that I have raised?

Mr. Faris: — That will be considered.

Sections 218 to 220 agreed.

Section 221

Mr. Chairman: — We amend section 221 of the printed bill. This is by the minister.

> clause (a) by striking out 'or' in clause (b), and (b) by striking out clause (c) and (d) and substituting the following (c):
>
> make any additional order or recommendation with respect to any matter incidental to an order under clause (a) or (b) or (d) where the board of education or the teacher at any time prior to or during the investigation agree in writing to a mutually acceptable disposition of the matter, make an order confirming that settlement.

Mr. Chairman: — Is the amendment agreed?

Mr. Cameron: — I have a question to the minister. Is it the minister's view that that section is wide enough to permit a board of reference to order damages in lieu of reinstatement where reinstatement is clearly inappropriate?

Mr. Faris: — Yes.

Mr. Cameron: — O.K. May I just draw the minister's assurance that if in time to come that section should prove to be so worded as not to allow an award of damages in some amount of salary that is appropriate in lieu of reinstatement, would you be prepared to undertake to change the section if in the future it requires changing to be certain that a board of reference can award damages in lieu of reinstatement?

Mr. Faris: — Yes.

Mr. Chairman: — Order! There was a second amendment here by Mr. Stodalka but we can't call that one now because of this previous one being agreed and it covers the same area.

Section 221 as amended agreed.

Section 222

Mr. Chairman: — We have an amendment to Section 222 and we deal with the Maple Creek member's amendment first this time. His amendment is 'to strike out section 222 of the printed bill'.

Mr. Stodalka: — Mr. Chairman, we know and realize that the minister has introduced an appeal to the court procedure as well as the one that we have introduced. We feel very strongly that quasi-judicial bodies such as this, the board of reference that would be created by this legislation such as the Labour Relations Board and the Human Rights Commission - that we should be able to appeal the decisions of these boards to the court system. We feel that we should be able to appeal these decisions, not only in matters of law, but in matters of fact. The whole case should really be reviewable before the court system. The minister's amendment, while it is an improvement over the legislation we had in Bill No. 43, or Bill No. 22 initially, is certainly a very limiting piece of legislation and we in our own party here, having the strong feelings we do have about binding decisions, object very strongly to such a weak appeal mechanism as has been introduced in this legislation. We feel that our own mechanism is much more substantial. We feel it is much more fair to the teacher involved and much more fair to the board that is involved. Therefore, because of that, we would like to see this particular piece of our recommendation being presented and becoming part of Bill No. 22.

Amendment negatived on the following recorded division.

YEAS - 16

Malone	Stodalka	Berntson
Wiebe	McMillan	Lane (Sa-Su)
MacDonald	Nelson (As-Gr)	Wipf
Penner	Clifford	Thatcher
Cameron	Birkbeck	Katzman
Anderson		

NAYS - 28

Blakeney	Matsalla	Feschuk
Thibault	MacMurchy	Faris
Bowerman	Mostoway	Rolfes
Smishek	Banda	Shillington
Romanow	Whelan	Skoberg

Messer	Kaeding	Nelson (Yktn)
Snyder	Kwasnica	Koskie
Byers	Dyck	Johnson
Kramer	MacAuley	Lusney
Kowalchuk		

Mr. Chairman: — We have a further amendment now by the Hon. Mr. Faris:

> that we amend section 222 of the printed bill by adding, after subsection (2), the following subsections: (3) a board of reference shall have full power to determine any question of fact necessary to its jurisdiction but, notwithstanding subsection (1), either party to an investigation may make an application to the Court of Queen's Bench for an order to set aside the decision of the board of reference from the grounds that, (a) there is an error of law in the fact of the record, (b) the board of reference lacked jurisdiction to hear the matter, or, (c) the board of reference exceeded its jurisdiction, and, (d) an application mentioned in subsection (3) shall be by motion, notice of which shall be served from the other party to the investigation within 10 days from the day on which the decision is filed, pursuant to section 223 and at least 10 days before the day fixed for the hearing of the application.

Mr. Chairman: — Is the amendment agreed?

Mr. Cameron: — No, Mr. Chairman, I want to speak to this amendment.

It is an amendment which appears to meet the objections of the opposition, if you look at it superficially. But it falls far short of meeting the suggestions that we have made consistently, about an appeal mechanism. The Attorney General will understand I am sure, if he takes a close look at this section, that what you have merely done here is to reintroduce specifically into this act, limited rights of appeal that already exist in the law and it is a complex area. But the member for Quill Lakes will understand too that what this is saying is, in effect, you have a right of certiorari which you currently have under the law. But that is a very limited area of appeal. All you can there question on those certiorari applications, and that is what this amount to, is merely a statement of the law on an application by way of these certiorari applications. That's what this amounts to, which is a very, very limited and technical attack upon a board or any decision-making body. What it does is, it gives you right of appeal in respect of the issues that surround the main issue, but no right of appeal with respect of the main issue. Questions of jurisdiction. Did the board of reference have jurisdiction? That's purely a very narrow question of law. There is an appeal in respect of that question under this amendment. There has always been an appeal in respect of that because if a board makes an order without jurisdiction it's null and void and there has always been a mechanism to attack that in the courts and get it set aside. The expression error of law prefaces a record, as the minister will know, is drawn directly from the law. I say a very limited and narrow and technical area of attack upon a decision. What this amendment does, as I say, is it gives you, gives a party to the dispute the right of appeal with respect of all the narrow legal issues surrounding the central issue, but no way that you can get in and appeal the central issue. What I cannot understand here is the resistance to the minister and the resistance by the Attorney General and others who perhaps have had

some experience in this area to granting these people a full right of appeal.

Now what does a full right of appeal mean? First of all, the appeal court has to take the fact as found by the court or body of original jurisdiction. That's part and parcel of every appeal. The finding of facts, remains; the finding of facts are open to assessment on an appeal except in one small limited area and that is if there have been perverse finding of facts. The question though, is to fit the facts into the law, where you get your difficulties.

Look back to the section. In what circumstances may a teacher be dismissed? Well, the teacher may be dismissed for professional incompetency. Now the question arises, what is professional incompetency? The board of reference has a look and determines the facts, that is to say, the conduct of the teacher has been inquired into fully and those facts established, then it takes those facts and says, do these facts amount to professional incompetency? There you are passing from a question of fact to a question of law and you can go very wrong in determining whether or not a given conduct amounts to professional incompetency. That applies with respect to every other reason for or power to dismiss - unprofessional conduct is another, neglect of duty, physical or mental disability. In respect of each one of those categories, the board of reference first determines the facts. Those facts are determined for all time. Then it turns to the things, that is neglected duty, physical or mental disability, and, indeed, it even goes on with some rather wide areas like immorality. What level of immorality justifies dismissal?

Those are the questions that should be opened to appeal and if you had a regular appeal mechanism, the facts as found by the board of reference would remain as facts before the appeal court. The appeal court would decide whether or not those facts amount to justify dismissal.

Now, let me put something to you in a board way. It is your government which permits people to appeal to the courts in respect of a whole variety of questions, questions not approaching the enormity of the question that may be decided by a board of reference. For example, you can appeal a speeding charge; you can appeal a .08 charge under the Criminal Code; you can take to the courts a question of tenancies and leases; paying employees, whether or not you have paid them adequately; whether you have breached a contract. All those questions can go to the courts and they are appealable in the same say that I have been talking about an appeal. That is the questions of fact have to be taken to the appeal tribunal as found in the court of regional jurisdiction, but they turn to that second question of whether or not the facts are justified, the finding that was made in terms of the question of law.

All those questions that people have access to the courts, and there are a whole myriad of other ones and have rights of appeal, don't approach the importance of the questions that are determined under this act. Believe me, a finding by a board of reference, and I don't think the minister will differ with me here, can have lasting and disastrous consequences for a teacher. If a teacher is found by a board of reference to be guilty of immorality and, therefore, the dismissal was justified, that virtually ends that teacher's career. Now, that is a much bigger question than is the question of whether or not you were driving 75 miles an hour and subject to a $50 fine in respect of which you have appeal throughout the courts. That is the question that is the very, sort of, bread and butter and professionalism of the individual involved.

Everybody who has experience in this area knows that there are

errors made. There are errors made by judges of great competence and great experience and we have always recognized that. Errors are made by judges of the higher courts. What I am saying to you here is that it is inevitable, it is inevitable that there are going to be errors made here. It's sad that the person who has suffered the disadvantage of the error has no right to appeal except in that very limited little way around the main issue that I talked about. As I say I can't understand your resistance to give people that right. You are dealing here in a real way with people's careers. Everyone of us who have practised before the courts for some time have got all kinds of situations involving doctors or lawyers or, indeed, teachers, other professionals and these matters are sent to the courts, they are always subject to the appeal that I talked about, because it has long been recognized that you are here dealing with a question that can't be any more important to that person than his career and his professionalism and his livelihood. So I say I just cannot understand why you can't open this to the kind of appeal that should be there.

The STF object generally to a matter of appeal because of the consumption of time and the expense involved in it but I think with a little effort here we could have devised a proper right of appeal with a time period which was shortened and with some expense provisions attached to it that weren't so onerous. I suppose I'm never going to persuade you and never persuade the Attorney General. I'm sorry that the Premier sort of flicks in to make a vote and then flicks out in respect to this important bill. I would like to be able to address him some argument in respect to this question to attempt one last time to change his mind. And I would like to hear from the minister why, why does he resist giving to these people that fundamental right which everybody else enjoys in respect of even small questions, let alone big ones at this time. I'll tell you without question sometime down the road we will be reviewing some decisions made by boards of reference in respect of which they made errors and the consequences to the individual teacher may be disastrous and we will wonder why we didn't give that person the right to appeal, that's what will happen.

What I would like to ask the minister to do is to, in the next couple of hours if I may, to take one last look at it. We could sit down with the Attorney General and ask him about the effect of this amendment because the Attorney General will know it is very, very limited. And ask him the other question too, as to why - if we can't devise a mechanism to give people a real appeal in respect to these findings.

Mr. Chairman, I see it's 5:00 o'clock.

The committee reported progress.

The Assembly adjourned at 5:06 o'clock p.m.