

LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
May 4, 1978

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

On the Orders of the Day

WELCOME TO STUDENTS

Mr. N. Lusney (Pelly): — Mr. Speaker, I would like to introduce to you and through you 10 students of the adult upgrading education class at the Cote Indian Reserve. They are here today accompanied by their teacher, Pauline Danyluk. I would ask all members to welcome them to the legislature. I hope they have an informative and interesting afternoon here today. I will be meeting with them a little later on. I wish them all a safe journey home.

Hon. Members: — Hear, hear!

Mr. E.L. Tchorzewski (Humboldt): — Mr. Speaker, it is my pleasure to introduce to the members of the Assembly a group of young people from the constituency of Humboldt. They are 37 grade twelve students from the Humboldt Collegiate Institute. They are seated in the west gallery. They are accompanied by their teachers, Mr. Bob Bandurka and Mr. Doug Sill and their bus driver, Mr. Ted Florey.

I am particularly happy to see them here today because during the time that I have been the MLA for Humboldt, as far as I can recall, this is the first time that a group of students has attended a session of the legislature in that period of time. I hope that they will find their visit here interesting and educational and that their trip home will be safe one, Mr. Speaker.

Hon. Members: — Hear, hear!

Mr. Tchorzewski: — Mr. Speaker, while I'm on my feet, I, in coming to the Chamber, had the good fortune of running into a group of fine looking young people who are sitting in the Speaker's gallery and went over and met them and had a chat with them for a while and found out that they are from the Yukon. They are Mrs. Lister and Mrs. Lane, who was in charge of the nine gymnasts from the Yukon, who are participating in the western Canada gymnastics competition here in Regina this weekend. So I know the members of the House will want to join with me in extending our greetings to them and our best wishes in the tournament.

Hon. Members: — Hear, hear!

Mr. G.H. Penner (Saskatoon Eastview): — Mr. Speaker, I would like to introduce to you and through you to members of the House a group of 90 grade eight students from the Alvin Buckwold School in Saskatoon. They are seated in the east gallery along with their teachers, Mr. Bonnar, Mr. Gordon, Mrs. Hutton and Mrs. Rempel.

We hope that you will find your stay in Regina and particularly in the legislature to be interesting and informative. I look forward to meeting with you later this afternoon and I ask all members to join with me in welcoming these students to the House.

Hon. Members: — Hear, hear!

Mr. G.N. Wipf (Prince Albert Duck Lake): — Mr. Speaker, I would like to join with the Minister of Health in welcoming these people from the Yukon. I do hope that your stay in Saskatchewan is very interesting and you are very successful. I hope you enjoy your stay. We had an excellent trip up to your country last year, and my two colleagues and I am sure they join with me in welcoming you. We attended during Rendezvous Days, the quietest part of the Yukon and I don't think we can show you the same flair that you showed us, but welcome to Saskatchewan.

QUESTIONS

Senior Citizens' Centre

Mr. E.F.A. Merchant (Regina Wascana): — Mr. Speaker, a question to the Minister of Social Services. I ask the minister about the senior citizens' centre in Regina, or potential centre, because I suggest, Mr. Speaker, he is the most likely person to be responsible.

My question is, Mr. Speaker, would the Saskatchewan government be prepared to make a special grant to make possible new facilities for a senior citizens' centre in Regina, baring in mind that the senior citizens' centre has 1400 members, more than twice as many as Saskatoon. And, secondly, elderly people come from all over the province into Regina and I wonder if the minister would agree with me that the Regina situation is a special situation, different from other centres in the province?

Hon. H.H. Rolfes (Minister of Social Services): — No, Mr. Speaker, I do not agree with the member that Regina is a special situation. As he is well aware we do make grants available. At the present time our grants amount to 20 per cent of the construction costs. In addition to that, Mr. Speaker, we make grants available operating grants of 40 per cent and it doesn't mean that the senior citizens in Regina are limited to one senior citizen activity centre. Our criterion is about one activity centre for every 2000 population of senior citizens. We would rather see an activity centre decentralized in the city of Regina rather than one big senior citizen activity centre.

Having said that, Mr. Speaker, if the senior citizens decide that they would like to have one centre, certainly our grant would be available of 20 per cent. In addition to that, I think the member also knows that the federal government does make a grant available for equipment.

What I would like to see, and the member here can certainly have an influence there, is that the federal government go in with us on money, on construction or operating. I think that certainly has some merit and if the member supports me in that I am quite prepared to support him in his suggestion.

Mr. Merchant: — A supplementary, Mr. Speaker. I don't yet get to speak for the federal government though I understand they are prepared to assist. I ask the minister, however, whether he is not aware of the fact that with the 20 per cent funding it will not be possible for a senior citizen centre to be constructed in Regina and I ask whether the government wouldn't reconsider its position which encourages many centres, and not one, and look for funding within the recreational dollars, dealing with senior citizens in the same way that younger people are dealt with through recreational assistance and make a special grant over and above the 20 per cent which would make possible a new centre in Regina.

Mr. Rolfes: — Mr. Speaker, that is not for me to decide as the member well knows. We have a \$25 per capita (I believe) recreation and cultural fund right now. There is nothing to prevent the city of Regina to allocate some of their funds that they receive from the government from that particular source for a senior citizen activity centre. I believe that some of the other towns have done that. In fact, I know some of the other towns have done that and I know some of the other cities have done that in order to assist senior citizens.

I really don't think that I can make an exception because if I do, then I think I have to make an exception in every case throughout the province. I think our funds from my department are fairly generous when it comes to senior citizens and, Mr. Speaker, I think when my estimates come up I will show the member that out of this year's budget we have over \$200 million worth of programs for senior citizens in this budget.

Cattle Industry

Mr. W.C. Thatcher (Thunder Creek): — Mr. Speaker, a question to the Minister of Agriculture. Mr. Minister, the cattle industry has undergone some rather drastic changes in perspective in the last month or two. I am sure that the minister is aware of the very bitter debates that have taken place in that industry as to the sort of marketing system that they should have.

Would the minister agree that the situation we are in right now in terms of the livestock industry demonstrates very conclusively that the free market system probably is the best indicator of a supply situation in that would the minister agree that the free market indicated when we had far too many cattle on the North American continent and that it is now very clearly indicating that we are now probably approaching a much more desirable level?

Hon. E.E. Kaeding (Minister of Agriculture): — Mr. Chairman, I will grant you that the present situation with regards to the price of livestock has improved substantially. I think what it does prove, again and it doesn't prove at all that the free market system is the best allocator, all it proves is that the people who can't survive in a hard world, whether they be young farmers or beginning as farmers, farmers who don't have enough backing, those are the people who drop out in situations where we have real serious problems like we have had in the last four years. What has happened now is that some of those people who are not able to compete because they were not able to get into a good financial position, some of them are now gone, and I think you are now going to find that we are going to be short of livestock. Rather than have the right number we are going to be short and a year from now we are going to be complaining and crying because we oversold and that is an indication in my mind that a free market does not allocate property.

Mr. Thatcher: — A supplementary, Mr. Speaker. Mr. Minister, would you agree that many of the problems that led us into the problems which the industry had were in the early 1970s when governments, not just provincial but also federal and other provincial governments I might add, were providing stimuli for people to enter a business which was completely artificial and not the profit incentive would the minister agree that while the market has now probably taken us to the desired number, the desired level in terms of numbers, this balance should be maintained at all costs and that the government no longer induce people into a business by artificial stimuli?

Mr. Kaeding: — No, Mr. Speaker. I would not agree that we should take that route. I believe there is always a point where governments can be of some assistance to a young farmer starting up. Certainly one has to be careful with allocating funds in an industry where there is an oversupply. We are now conscious, of course, of the fact that we are getting to the proper level of production in the dairy industry and FarmStart is now not encouraging loans to the dairy industry. I think it is important that we recognize those kinds of situations. I challenge again the member to really indicate that we were ever oversupplied with beef in western Canada. I do not believe the number of cattle we have in western Canada really had any real impact on the pricing on the world market. I suggest that we are going to now find ourselves in the same position as the hog industry, whereby we are not producing enough to supply our own market.

Rat Control

Mr. J. Wiebe (Morse): — A question to the Minister of Agriculture. Saskatchewan, during the past number of years, has been rather unsuccessful in trying to reach a human population in the province of over one million. They, however, have been very successful in other areas. Mr. Clarence Peters, the test control specialist with your department, the provincial Department of Agriculture announced today that because of a lack of a meaningful rat control program in the province of Saskatchewan, Saskatchewan's rat population has now exceeded over one million. Will the Minister of Agriculture now agree that the question which I posed to him a number of days ago is an urgent and important one and agree that Saskatchewan in effect does not have a rat control program and unless something is done within a short while we could find ourselves up to our knees in rats in the province of Saskatchewan?

Mr. Kaeding: — Mr. Speaker, yes there are rats all over. There is no doubt that rat control is a real serious problem in the province of Saskatchewan as it is in many other places of the world. We have undertaken a fairly consistent policy at the present time and the member will know if he goes back to his own cultural committee that they now have some funding to set up a regional rat control program. I know in my area, and I have been all through that area talking to RM communities and they indicate to me that they have the rat control program moving forward this year. They are putting the emphasis on local government and local people to do a lot of work and I think that is how it has to be done. There is no way that you can send a whole bunch of people out and say, well go out and kill rates. It is up to each farmer individually and the educational program that goes with it and that is under way now.

Mr. Wiebe: — Supplementary question, Mr. Speaker. SARM and other provincial bodies have in effect said that the provincial rat control program is basically of no value. As a result of a lack of rat control program, the province of Alberta, which is rat free, has established a border patrol with pest control officers, not to stop our population of people going into Alberta but to stop the population of rats from this province going into the province of Alberta. Mr. Peters also mentioned that the province of Saskatchewan does have the finances but not the manpower . .

Mr. Speaker: — Order, order! Does the member have a question?

Mr. Wiebe: — Yes, sir, Mr. Speaker. Would the Minister of Agriculture accept the recommendation of Mr. Peters and immediately provide opportunities for more pest control specialists to look after the various areas in the province of Saskatchewan?

Mr. Kaeding: — Mr. Chairman, the whole area is under review but I can tell you that

the existing program, the one which is now being undertaken by the regional committees, is going to be a pretty effective program. I think we should wait a year to see what happens.

Grain Handling Increase

Mr. L.W. Birkbeck (Moosomin): — Mr. Speaker, I would like to direct a question to the Minister of Agriculture. Mr. Minister, the announcement yesterday made by the Canadian Grain Commission states that, effective August 1, the maximum rate for handling charges of grain elevator companies has been increased. Now, Mr. Minister, do you agree that these steps will improve the grain handling system as does the chief commission, Mr. Del Pound, where he states that the required \$500 million is required in the system by 1985 and that this will create competition and further enhance the effectiveness of the handling system? Do you agree?

Mr. Kaeding: — Mr. Speaker, I think the decision by the Canadian Grains Commission was not an unreasonable one. The level of increase which they allowed was about 10 per cent in most cases, which is hardly enough and not any more than enough to accommodate replacement. We are quite aware that there are very high costs facing the grain industry. We are looking at changes in dust control legislation, which is going to cost a lot of money for installation of dust equipment; the installation of protein testers which many people are now demanding is going to be a very expensive proposition and added to that, there is the elevator consolidation and rationalization process, which costs a lot of money. I think we would be rather remiss if we would suggest that we would not expect the elevator companies to need a fair bit of extra revenue in the next few years to accomplish those things. The elevator companies and transportation companies always get criticized because they are not providing good enough service and yet I think it is necessary, because of that, to recognize that they need additional funds to do that. We are concerned to some extent that the money is not always being used properly. We have made some representations to the Canadian Grains Commission in that regard, but the level of increase that was allowed, I think, is not unreasonable and one which we could recognize as a good one.

Mr. Birkbeck: — Supplementary, Mr. Speaker, In fact the allowable increases or maximum rates were allowed to the terminals as 78 per cent. You say that the 10 per cent, I think that that required mentioning in view of the fact that these costs have to be ultimately borne by the farmer. This means that an awesome burden has been placed upon them and do you feel that this is justified and if so, or if not, I should say, what measures are you going to take to the federal government to have them bear some of these costs and what pressures and proposals will you make on the federal government to have an immediate implementation of the Hall Commission report?

Mr. Kaeding: — Mr. Speaker, of course the minister in charge of the transport section is continuously urging the federal government to implement the Hall report in its entirety and I think you will note from all the material that has been in the paper that the minister is doing a good job in that regard. Certainly we can't force the federal government to do what they don't wish to do but we are certainly taking every opportunity we can to put our position to the government.

Legal Aid Societies

Mr. W.H. Stodalka (Maple Creek): — A question, Mr. Speaker, a question to the

Attorney General. I believe one of your earlier accomplishments was the establishment of the legal aid societies in the province and the legal services that they provide to people who are unfortunate enough to not be able to pay for their own. It has come to my attention that within the province they have had to lay off 16 people and these people are indicating that they, these lay offs, are because of a lack of funds. Would the Attorney General indicate whether or not this is indeed a problem? Indicate whether there have been 16 people laid off and whether or not the reason is a lack of funds for these societies.

Hon. R. Romanow (Attorney General): — Mr. Speaker, I think the problem is indeed a problem. As I understand the situation, last year in the budget, I mean as opposed to this current fiscal year budgeted, the 16 additional positions were hired by the Legal Aid Commission themselves on the basis of surplus funds which the commission accumulated over that year's particular operation. The hiring of these 16 was done without any reference to Treasury Board at the government level. When they submitted this year's budget, quite naturally from their point of view, they dragged along with their submission, the request for additional funds based on a certain percentage which incorporated those 16 people. We are in a period of restraint, the budget increase overall amounts to 8 per cent, 8 to 10 per cent, which we think is a fairly generous increase for the Legal Aid Commission which has been funded very heavily the last few years and are asking the Legal Aid Commission, within the parameters of restraint, to do the kind of budgeting which is necessary in order to accomplish their goals and overall government policy of restraint.

Mr. Stodalka: — I don't know whether the area of restraint should apply in this area. I'll give you an example. I have just been informed that in the southwest legal society in the Swift Current area, that they have had to withdraw services from seven centres. The area from Swift current used to travel out to Shaunavon, Maple Creek and the likes and as of yesterday these centres were notified that there would no longer be any service supplied to them. What are we really doing? You know we used to talk about one law for the rich and one law for the poor and now we are having a situation where these people have to travel over 100 miles to the city of Swift Current and we end up with one law for the city people and one law for the rural. Does the minister not agree that this would be one of the results of such a decision?

Mr. Romanow: — Well, Mr. Speaker, I don't believe that that situation can be portrayed in those terms. Keep in mind that the 16 people are all para professional, para legal, that is not to say they don't have an important role to play in the system, but they are not legal people. The legal complement remains as it is, in fact, I think probably has been increased for the provision of legal services. Also, the fact is that of the totality of the budget which Legal Aid got last year, this year there is a plus 8, plus 10 per cent factor.

I think the hon. member would agree with me that that is a fairly generous increase, 8 to 10 per cent. I realize that if I was a legal aid officer or a legal aid commissioner I would want more. It is ever thus with any agency. As I say we are trying to run as lean a government as we can and there it is with respect to the operation, I must say, also, before I sit down that there are some ongoing discussions as between the commission and the government people to try and overcome this problem.

Mr. Stodalka: — Final supplementary. Really I think the Attorney General will have to admit that there really is definitely a reduction in services, when you take people who were previously there and they are gone. Again, I don't think you answered my question

about the fact that we have the problem of rural people. These are the type of people who don't have any transportation, they usually don't have the funds and you are expecting them to go over 100 miles to visit the people.

My point is, would the Attorney General please reconsider the position of the government and see if you can find a few dollars that you might be able to give these people so they can provide the services, not new services, but services they presently authorize?

Mr. Romanow: — Well, Mr. Speaker, the matter is under review on a regular basis and there is no doubt about it that from that point of view the request is nothing novel because it is under review. I can hardly believe that there would be a cutback of the kind described by the hon. member, simply because if they did it last year on that particular amount of money, and this year they have that money, plus 8 per cent, to me there must be something drastically wrong with respect to the situation. Maybe this requires some larger look at the entire problem. As I say, at this stage in the game I think that it is not as the member says and it is being reviewed.

Central Liquor Clearing Agency in Saskatoon

Mr. H.W. Lane (Saskatoon Sutherland): — Mr. Speaker, a question to the minister in charge of Government Services. Some time ago in the House I asked him about whether or not there would be the inclusion of a central liquor clearing agency in that new government building in Saskatoon and I believe his answer was no, it would not be used as a storage depot.

Several constituents of mine have now raised the concern and asked me to forward this question to you, in the House, as to whether or not there will be a liquor outlet or a licensed premises in that slot of the building located in juxtaposition to the public library?

Hon. E.B. Shillington (Minister of Government Services): — The answer is no.

Mr. Lane (Sa Su): — Supplementary. Mr. Speaker, will any position in the government building be either a licensed premises or a liquor outlet or a liquor storing depot?

Mr. Shillington: — there may be a retail liquor outlet. There will not be a wholesale outlet. There will not be licensed premises. There may in the building be a retail outlet. The final plans for the building, Mr. Speaker, haven't been finalized but I can't rule that out at this time.

Mr. Lane (Sa Su): — Now, with respect to the perhaps that's what is causing the controversy or the stir. Can you tell me at this point in time where the location is? In other words there are a number of people who are quite unhappy about the possibility of seeing the public library, which of course caters to younger children, being located right next door to a retail liquor outlet. So can you assure us that it will not, at least, be located in that portion of the building?

Mr. Shillington: — Yes, I can assure you that it won't be located next to the library.

Level IV Beds

Mr. C.P. MacDonald (Indian Head Wolseley): — Mr. Speaker, I would like to direct a question to the Minister of health. In the budget of the Minister of Finance he announced that there would be level iv beds allocated to certain acute hospitals in the province of Saskatchewan. For some reason or other the Minister of health has been strangely silent on this program and has not announced the details. Many rural hospitals are now beginning to wonder what is the implication on their own budgets, their own administration for the coming year. Can the minister indicate when the details for that program will be announced?

Hon. E.L. Tchorzewski (Minister of Health): — Yes, Mr. Speaker, I do appreciate that rural hospitals and, indeed, all of Saskatchewan communities are interested in the program which I indicated was going to be included in this year's Health budget, provided by this government and I am pleased to tell the member that I will be making the announcement with all of the details next week.

Mr. MacDonald: — Can the minister give me this assurance? Many of the small hospitals, particularly the administrators, are under the impression that the delay in the announcement of this program is because of the fact that if level IV beds are allocated to acute hospitals it will mean a reduction in their average daily census. Can the minister give a guarantee to hospitals in rural Saskatchewan that there will not be a reduction in their acute hospital beds or their average daily census by this new program?

Mr. Tchorzewski: — Mr. Speaker, the announcement will be made in due course and that's next week.

Overpass Over Highway 47

Mr. R.A. Larter (Estevan): — Mr. Speaker, a question to the minister in charge of SPC. Could the minister tell this Assembly if it is the intention of SPC or in conjunction with the Department of Highways, to put an overpass over Highway 47 to haul coal from the SPC mines to Boundary Dam?

Hon. J.R. Messer (Minister of Mineral Resources): — Mr. Speaker, I am not well acquainted with the requirements for an overpass, if in fact they are required. I will take the question under advisement and convey an answer to the member in due course.

Mr. Larter: — A supplementary, Mr. Speaker. The reason I asked this, Mr. Minister, I think you know that the Minalta coal mine on Highway 39 has been requested to build an overpass to haul coal over Highway No. 39. My reason for asking the question is that I wanted to know if the rules were the same for SPC as they were for the private sector.

Mr. Messer: — Well, Mr. Speaker, I would assume that there is some policy that is in place in regard to numbers of vehicles that would cross the highway and that would apply generally. As I said earlier, I will take the member's question under advisement and answer in due course.

Bill No. 47 Regulations

Mr. Merchant: — A question to the minister in charge of Mineral Resources. The minister is well aware that the industry is waiting expectantly for the regulations under Bill No. 47. Could the minister indicate when those regulations long promised will be brought down and tabled?

Mr. Messer: — Well, Mr. Speaker, as I indicated to this House yesterday during the question period . .

Mr. Merchant: — No, you didn't.

Mr. Messer: — Yes, I did, Mr. Speaker, and if the member for Wascana had been listening he would have heard. We are currently carrying on discussions with the industry in regard to the regulations that will be required in order to put fully into place Bill No. 47. We have had a number of meetings with the industry. The second round of meetings, if I may refer to them as such, has not yet provided enough time to allow the industry to respond to what the department conveyed to them in that second round of meetings. We do not want to push the industry in narrowing the time frame for them to respond in such a way that it might be interpreted either by them or by the member for Wascana or other opposition members to mean that they have not had real opportunities to convey certain advice and/or recommendations to the government before they finalize their regulations. I would hope that they will be able to bring their concerns to the government, to the Department of Mineral Resources in the near future and as soon as that is done I would expect that the regulations will be coming a short time after that.

Mr. Merchant: — Mr. Speaker, by way of preliminary to my supplementary question, perhaps I could be permitted to remind the minister that many people who speak the English language consider that 'when' means some time frame. I wonder if the minister could indicate when you intend to bring in the regulations. Might that be next month or four months from now or six months from now? The minister, Mr. Speaker, has defined what he describes to be ongoing negotiations on many occasions. I would be interested in having some better time frame indication.

Mr. Messer: — Mr. Speaker, the member may want to relate to the discussions that are taking place with the industry as negotiations. I do not believe that that is entirely accurate. We are discussing with them their concerns and I think that even though he was a member of the government's side of the House which I doubt will ever be the case, or a member of the Treasury benches, if he would set arbitrary time limits and not allow them to have any input that then is the attitude of the Liberal Party. But we, Mr. Speaker, when we introduced Bill No. 47, conveyed to the industry that we would be discussing with them the regulations that would be required for that bill and we are now doing that. I hope that those discussions will conclude at an early date so we could in fact introduce the regulations.

Mr. Merchant: — A supplementary, Mr. Speaker. Would the minister indicate whether it is your intention to revise your regulation structure so as to soak up the benefits that the federal budget has intended for the Lloydminster development or whether those additional benefits to encourage the development of heavy oil will in fact be passed on to the producers in that area?

Mr. Messer: — Mr. Speaker, I said on occasions in the House previously that there will have to be some special considerations given to the heavy oil activity in the Lloydminster area for tertiary recovery and also bringing into place an upgrading facility. There will be no final decisions made in that regard until we have in fact introduced the regulations under Bill No. 47.

Mr. Larter: — Mr. Speaker, a question to the minister in charge of Saskoil. Is it not

true that the delay in bringing down these regulations has something to do with the fact that Bill No. 47 may be declared unconstitutional?

Mr. Messer: — No, Mr. Speaker, absolutely not.

STATEMENT

Land Sale

Hon. J.R. Messer (Minister of Mineral Resources): — Mr. Speaker and hon. members, I would like to take this opportunity I am sure that the members opposite will be sitting on the edge of their chairs waiting for this announcement, as I indicated that we had a land sale in the province of Saskatchewan on May 2. To a considerable degree, Mr. Speaker, we gambled by holding this land sale at this time. We were keenly aware when the decision to hold the May 2 sale was taken in late January that it was likely the issues raised by the Supreme Court's decision in the CIGOL case would not be completely resolved by the sale date, which proved to be the case, Mr. Speaker.

We have maintained contact with the industry representatives during the drafting of Bill 47 and the regulations and I appreciate the interest that was shown by the many companies, large and small, that participated in the sale. Debate, Mr. Speaker, during the passing of Bill 47 was strenuous and this was to be expected, considering the issues involved. But some of the unreasonable arguments raised by the members opposite at the time and at every opportunity since have not made the job of maintaining the confidence of the oil and gas industry in Saskatchewan an easy task.

Mr. Speaker, land sales are always primary indicators in the oil and gas business and the sale results certainly prove that the industry activity in the province will continue to be strong, Mr. Speaker. The sale of found petroleum and natural gas rights held on May 2 resulted in a new all time Saskatchewan sales record, a new all time Saskatchewan sales record. Bonus bids totalling \$12.8 million were accepted and this figure exceeded by \$5.2 million the previous record of \$7.7 million. That previous sale, Mr. Speaker, was held in October, 1977. All of this was achieved with fewer parcels and some 40,000 fewer acres sold in comparison to the October, 1977 sale.

Mr. Speaker, all of this was achieved while the members opposite preached doom and gloom about the future of the oil industry in the province of Saskatchewan.

Mr. Speaker: — Order, order! I would take this opportunity to remind the minister that ministerial statements should be brief, factual and specific, the same as the answers.

Mr. Messer: — Mr. Speaker, I am undertaking to make this as brief and as factual as possible. If I may continue, Mr. Speaker.

A total of 51 companies registered bids in the sale. This participation indicates not only undiminished but increased confidence by the oil industry in Saskatchewan and its oil and gas resources. The Supreme Court's ruling on Bill 42 and the subsequent introduction of Bill 47 has not deterred the oil industry from aggressive bidding for Saskatchewan oil and gas rights.

The heavy oil deposits, Mr. Speaker, in the Lloydminster area attracted the most interest and accounted for almost half the total income from the sale.

Mr. Cameron: — There is the answer . .

Mr. Messer: — Seventeen leases that's right, that's the answer because of the position Saskatchewan has been in with regard to an upgrading facility. Mr. Speaker, 17 leases in the area east attracted bids of over \$400 per acre with a top price of \$1,016 per acre being paid by Imperial Oil. The average price per acre for leases sold in the Lloydminster area was \$344. Other purchases in the general Lloydminster area included a drilling reservation bought for \$1.2 million by agents of undisclosed clients. This price represented a cost per acre of \$601.

Interest in the Kindersley area was also maintained as shown by a purchase by undisclosed clients of a 9,000 acre drilling reservation for \$3.6 million or \$401 per acre. Total sales in this area amounted to \$4.3 million. I'll give a copy of this to the member for Kindersley (Mr. McMillan) so he can take it home.

Purchases in the Weyburn area included two permits sold for a total of \$1.2 million and 21 leases sold for \$850,000.

Now, Mr. Speaker, for clarification to the members when we talk about selling land, it is not selling land in the usual sense, we are selling the rights only on this sale to explore and drill and, if successful, to produce oil and gas under lease, not sell land as some of the Conservative members would try to allude to.

Mr. Speaker, in brief, the results of this current sale together with the \$7.6 million sale of October, 1977, once again set all time records for the province of Saskatchewan and, Mr. Speaker, indicate a continuing interest in the oil industry in exploration for production of oil and gas in the province of Saskatchewan.

Some Hon. Members: — Hear, hear!

Mr. Merchant: — Mr. Speaker, I suggest that the success of the sale only indicates the terrible oil shortage in the world and when you compare, when you compare, Mr. Speaker, to the Alberta sales where they are virtually going crazy with revenue from their sales and the success there, what could one expect but that there be some spill over . . (inaudible interjection and noise) . . when, when the story is out and it will be out within about a week, Mr. Speaker, I guarantee the members of the House that you will find that by far the largest buyers will be Saskoil, Sask Power and Petro Can. Petro Can will be the largest holder in the Lloydminster area and the minister knows that. Now, Mr. Speaker, I believe what the Lloydminster success demonstrates is that the industry is prepared to accept the federal incentives and it also indicates the success of getting the Alberta program at Cold Lake underway . .

An Hon. Member: — Hear, hear!

Mr. Merchant: — If, in the very political way that the minister has described this announcement, if it is as successful as he says it is and if this year you double again the growing activity as you doubled last year, that would be, double last year and double again this year, then you will have gotten back to the Liberal average from 1964 to 1971.

Some Hon. Members: — Hear, hear!

Mr. Larter: — Mr. Speaker, I would like to commend the minister on his pre election land sale. Just imagine, Mr. Minister, if this was Tory Alberta, just think of all the land sales we have lost and all the activity we have lost in the oil business, over the years . . (inaudible interjection and noise) . . Does the minister really think, because he has had the land sale that the activity is going to pick up that much? Don't you know that they are waiting until the Tory government takes over? . . (laughter) . .

Mr. Speaker: — Order, order. I take this opportunity to draw the member for Estevan to order for not making a non political statement.

ANNOUNCEMENT

Seventy fifth Anniversary of St. Peter's College

Mr. Tchorzewski: — Mr. Speaker, under the orders of the day, I would like to bring to the attention of this Assembly a very important celebration which will take place in an area of the province that is represented by myself, Mr. Koskie, the member for Quill Lakes, Mr. Vickar, the member for Melfort, and Mr. Thibault, the member for Kinistino. This year is, as some members will know, is the 75th anniversary of St. Peter's College, which began in 1903 through the leadership and the guidance of the Order of St. Benedict. The first settlers and a large number of those who came over, originated in the State of Minnesota and I think it is particularly fitting to bring this to the attention of the members of the House, when some students from Humboldt and area are here, because many of them are descendants of those original colonists who came to that area at that time.

These people, and generations after them, have made a major contribution to the development of our province, Mr. Speaker. They made that contribution through a strong love and loyalty to the land and their province and their country, Canada. I am proud to point out that to a large extent, the family farms which began during that settlement and that period, are still family farms today.

An Hon. Member: — Hear, hear!

Mr. Tchorzewski: — An executive committee has been making arrangements for the celebration of this event for many months and Brother Thomas Gowe, its executive secretary from whom members will find a letter in a package of mementos which I shall table and present to them in a moment, has worked tirelessly on the project. Visitors are expected from every continent in the world and the people of St. Peter's Colony, on behalf of them, I extend to all members of this Assembly an invitation to join in this celebration.

As we, in this legislature extend our congratulations to the people of the are of St. Peter's Colony and wish all the communities involved every success in their plans. I think it might be appropriate to remember some words written by Father Lawrence Demall, about why it is important to celebrate such an anniversary. And if I may be permitted, I will do that in conclusion to my remarks and I quote:

Our remembering, like our looking at the future, is what makes us human. We are aware, we know and we remember. We are rich and we have a history and a rich history it is. For it is not just a succession of events meaninglessly tied together; it is a rich tapestry woven by men and women wrapped around with the loving kindness of God. It is rich because God has made it a way of

salvation, our salvation. And successful because God is taking it somewhere, moving it toward Himself and bring us along.

Mr. Speaker, with those words I want to, with the help of the pages, present to every member of this legislature a package of mementoes, which includes a calendar which outlines the history of St. Peter's Colony and a schedule of events that will be taking place this summer. And, once again, on behalf of St. Peter's Colony and the organizers of the event, we invite members and all of their constituents to visit the area during these celebrations and join in the celebrations.

Hon. Members: — Hear, hear!

MOTION

Prince Albert Raider Hockey Championship

Mr. Wipf: — Mr. Speaker, before the orders of the day I would, along with the member for Prince Albert, Mr. Feschuk, move:

That this Assembly congratulate the Prince Albert Raider hockey team on their recent win over the Merritt Centennials and bringing to Saskatchewan the Abbot Cup for the second time, and further wish the Raiders every success against the Ontario team, in Guelph (which they will be playing, I believe, on Sunday) to become, again, the Canadian champions.

Mr. Speaker, I believe that just about every MLA in this Assembly probably has a player on that team, or has been on that team last year and this year. I would just like to move that, seconded by the member for Prince Albert (Mr. Feschuk).

Mr. M. Feschuk (Prince Albert): — Mr. Speaker, it gives me pleasure to join with the hon. member for Prince Albert Duck Lake in congratulating the Raiders on their win. I wish them every success in future games. All that I will add to this is, 'Go Raiders, go.'

Hon. Members: — Hear, hear!

Mr. M.J. Koskie (Quill Lakes): — Mr. Speaker, I would like to join with the member for Humboldt and to indicate that I join with him in the celebration of St. Peter's Colony 75th anniversary. I want to say . . .

Mr. Speaker: — Order, order! Not only is the member for Quill Lakes out of order, but I am out of order as well. I was required to have leave for the motion that was presented by the member for Prince Albert Duck Lake and as I ask the Assembly if we have leave to proceed with that motion.

Agreed to.

Hon. G.R. Bowerman (Minister of Northern Saskatchewan): — Mr. Speaker, I just want to add my congratulations to the Raiders and to support the resolution that is now before the House. Like, is often the case, the small communities which surround the cities in Saskatchewan make a very great contribution to those cities.

Shellbrook is not very far west of the city of Prince Albert and I must suggest and remind all members of the House that the very able and good coach of the Raiders comes from

the town of Shellbrook and was the instrument, really, the person who was the influence behind the Shellbrook Elks, in the six years of success that they had as the Intermediate B champions.

So I want to add my voice to the members who moved and seconded the motion and commend the Raiders and, particularly, the coach for having lead that team to its successful goal. I wish them every success in becoming the Canadian champions.

Motion agreed to, nemine contradicente.

Seventy fifth Anniversary of St. Peter's College

Mr. Koskie: — I just want to join with the member for Humboldt in bringing to the attention of the legislature as he did that St. Peter's Colony is celebrating their 75th anniversary.

This is an important occasion because, sort of at the centre of St. Peter's Colony is St. Peter's College. I want to say that a number of members in this legislature, at least some, have had their education at St. Peter's. I want to say also that Brother Thomas Gerwing is heading up the anniversary. I had the occasion to know him well, in fact, when I was teaching. Brother Thomas was a supervisor, superintendent in the Humboldt unit and also I taught with him in Humboldt. I join with the member for Humboldt to invite all of you to attend the celebrations and to join in part of the history of Saskatchewan.

Hon. Members: — Hear, hear!

Mr. Thibault: — Mr. Speaker, I would like to join with the member for Humboldt, Mr. Tchorzewski, in congratulating the St. Peter's Colony celebrating their 75th anniversary. I say that they have been part of the instrument that built such a wonderful foundation for the province of Saskatchewan. They have produced many notable people, also I am quite proud of St. Peter's Colony. I had three of my sons partly educated there. The St. Peter's Press in Humboldt, the Grey Messenger, has been very notable in this province and I want to add my congratulations and best wishes to St. Peter's Colony at this time.

COMMITTEE OF THE WHOLE

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

Section 222 (continued)

Mr. Cameron: — Last day I was making a last appeal to the minister to reconsider this section and the amendments he has brought forward. Let's say that I get to feel a bit like a drowning man gasping for his last breath and I'm not sure that I am making any progress. Well, you may well be right. I wish you would sort of join with me and give us some assistance in trying to do this because I think what we're putting forward, if we could just make it more readily understood, I think, by members, there might be more willingness to take a look at it. So let me attempt, if I may, to run through this in a little more detail than I did last time.

If you look back at section 210 of the bill you will find that a teacher may be dismissed

for these reasons: — professional incompetency, unprofessional conduct, immorality, fourthly, neglect of duty, fifthly for physical disability, and sixthly for some mental disability. Then there is the seventh broad, catch all clause. So the board of education is assessing the teacher, may dismiss the teacher on any one or more of those six grounds including the one I used particularly was the ground of immorality in the classroom or in the community. If a board of reference does that, that is the board of education does that, the teacher has the right to go to the board of reference and have that question determined. The board of reference makes the decision. Now, the question is whether or not there should be some appeal, and in this case I argue the point for the teachers, by the teacher from the binding order of the board of reference. Members will recall the point I was making earlier was that we have given people generally rights of appeal in respect of all kinds of question including some pretty minor ones, like speeding offences and so on. Here we are dealing with a question that involves the continuation of a professional career, we're speaking of a teacher in these circumstances. The teacher is dismissed by a board on the ground of something immoral and that is upheld by a board of reference that that teacher's career is shot. No possibility left in practice for that teacher to go back into the classroom anywhere else. So it is a decision of the highest magnitude and it affects the teacher in the most crucial way; it can be ruinous to that teacher's professional career forever. It is in those circumstances that I argue again the case with the minister that we should provide to that teacher an appeal to have that decision tested.

I want to deal just quickly, if I may, with the right of appeal that is in the amendment in an attempt to again show you how inadequate it is. There is an appeal; the appeal is limited essentially to two things. One is whether or not the board of reference had jurisdiction in the case. That doesn't come to the heart of its decision, only whether it had the power to make the decision. The second ground of appeal is whether there is an error of law on the face of the record. What does that mean, error of law on the face of the record? Well, the record in this case is the order of the board. That is the record. If there is an error in law on the face of the order of the board of reference, that can be set aside by a court and the proceedings are quashed and you have a re hearing. That is the result of that. If the board of reference simply says we find the dismissal of the teacher to be justified you can see that there is no way one can appeal that decision. No way it can appeal the decision. Only if there is some error of law in its order, is it appealable under this section. Again, the right of appeal which is very narrow in respect of a very narrow question of law which may appear on the face of the order. Even in those situations the appeal tribunal cannot look at the record or the evidence or assess the question of whether or not the firing was justified, all it can do is quash the order and send it back for a re hearing. That is totally, I think, unacceptable.

I want to remind members of a couple of practical cases to attempt to persuade some of you to take a look at this because I think there is a method by which we can do much better in this connection. I make the point that where you have a possible injustice, room for injustice, it is inevitable injustice will occur; it is only a matter of time. What separates the injustice from what we are doing today is only time. If there is potential for it it is inevitable that it will occur. We should do everything we can to avoid that.

Let me deal with one argument first. Members say and some members of the STF say, if you provide a right of appeal you are opening up an avenue which is costly to the teacher, if the teacher wants to appeal and secondly, it is very time consuming. First of all I think we can find some way around that by setting some time periods, in legislating time periods by which the notice of appeal has to be filed and by which time the decision has to be made. And as to the matter of cost, it may well be that the public

treasury can share in the burden of the cost on the appeal or the STF can share in the burden of the cost.

On a broader front what we are always doing always with our institutions is balancing questions of cost and efficiency against some other higher objectives. We do that in all our institutions. We do it in the legislature. The way we do our business here is inefficient and it's costly but we recognize that that aside there is a higher objective we are attaining in doing them. That same application applies in the courts in settling these questions. If you put the cost in the efficiency on the one side you have to put on the other side the best quality of justice that we can afford people who are in these circumstances and in balancing the two it is my view clearly that the need for justice with a minimum of opportunity for error, especially in questions of this magnitude has to outweigh questions of cost and some inefficiency. Let's reduce the cost and inefficiency to the extent we possibly can and preserve the right to appeal which is really in the end the best justice in the situation.

The practical examples I want to give you are these. The Minister of Municipal Affairs will be familiar with the case in Moosomin where the teacher brought into the classroom a copy of the *Georgia Strait* and that was considered by that particular community in those particular circumstances to be questionable conduct by the teacher. It was really amounting to some immoral conduct by the teacher in bringing that particular publication into the classroom. That led to a long and protracted and very difficult situation that that teacher found herself in. Let's take that situation and apply Bill 22 to it and how it would operate. If it was the *Georgia Strait*, and I tell members it could be *The Commonwealth* or it could be a religious publication, if it offended that particular community it could lead to a dismissal on the basis, as was the case in Moosomin, essentially of immorality. The board of reference would make a decision. If the board of reference agreed that it was immoral conduct to bring a copy of the *Georgia Strait* into the classroom, that teacher is fired and that teacher's career is finished, merely because the teacher brought into the classroom a copy of the *Georgia Strait*. As I say, in some situations I think it could be *The Commonwealth*; it could be *The Workers' Advocate*; it could be a Marxist publication if the teacher was trying to make a point about political philosophy here or political philosophy there.

The point is that the board of reference may very well on occasion err. It is inevitable they will error. Courts error despite all the experience and the training in the courts and the various levels of appeal. Errors are made all the time because it is a human institution and human beings make errors. The reason for the appeals in the courts is to minimize, to the maximum extent possible, the possibility of error where you have a major decision being made that affects somebody in such a fundamental way.

I want to refer you to another situation. Members will recall this, although I suspect now rather fuzzily, but remember in 1925 in a community in Tennessee there was a teacher (and that was a fundamentalist community with a fundamentalist religious belief) by the name of John T. Scopes. You remember the famous Scopes monkey trial. What I would like to do is to describe that to you a bit and apply Bill No. 22 and its provisions to that Scopes situation and show you what the consequence would be if we were working with the law as it will be under Bill No. 22.

Now, Scopes, some of you may remember, had a textbook and it was *Hunter's Civic Biology* which had been approved for some years in the Tennessee school system. *Hunter's Civic Biology* text described the theory of evolution which at that point in time was being sort of bandied about by some scientists. That is to say that man had evolved

from lower animal life. That was the proposition that was then being advanced in respect of evolution which was kind of novel and new at that point in time. Scopes was taking it out of his *Hunter's Civic Biology* and he was teaching that class in his classroom.

Now that fundamentalist community found that objectionable because they saw his teaching to be in conflict with the teaching of the Bible which said that man came from Adam and Eve and they took a literal interpretation of the Bible. They said therefore that Scopes was teaching a concept which was immoral. They put pressure on Scopes and the board that was then available and the matter was brought before a tribunal, in effect a board of reference, for decision as to whether or not Scopes was guilty of some immoral conduct in his teaching. He was found to be guilty because the theory of evolution that he was teaching from *Hunter's Civic Biology* was quite contrary, in their thinking, to the story of Adam and Eve in the Bible. He was fired and he was fined.

Now Mr. Scopes fortunately had a right of appeal under his democratic system and he appealed the case. The New York Civil Liberties Association Union came to his defence and gave him Clarence Darrow. He appealed the decision and it was overturned and Scopes was restored because it was found that that did not amount to any immoral conduct on his behalf. The consequence of that is that Scopes, instead of having gone to his grave as a discredited non Christian teacher, a former teacher, went to his grave as being recognized as a leading member in the educational community in terms of expanding the barriers of knowledge, expanding the frontiers of knowledge and taking a more enlightened approach to things. He has long been recognized as having led the way out of some of that dark age thinking, all because he had a right of appeal from the decision of a board of reference. That is what saved the situation, not only for Scopes in that situation, but it saved the quest for knowledge too in the United States. That is, it enhanced it a great deal because it was seen to be wrong to have done it in the first instance.

If you took Bill No. 22 and you applied it to the Scope situation, he would not have a right of appeal. He would not. The original tribunal in the Scopes situation had jurisdiction to try the case and make the decision so it was not open to attack on the basis that they had no jurisdiction.

Secondly, in their decision, there was no error of law in the face of the record, that little narrow right to appeal. That was not the question. The broad question was whether Scopes had been guilty of some immoral conduct in putting forward the theory of evolution drawn from the textbook. That was the question that was appealed.

Under Bill No. 22, he could not have appealed that question. That is the fact, if you apply the provisions of Bill No. 22. You see, that is the consequence of what we are drawing here when we so stubbornly refuse to look at giving some right of appeal beyond the little narrow ones that are here.

My great fear is that there will come a point in time when a teacher will be fired because of a situation that that particular community found unacceptable and which a board of reference, subject to all its error and its humanless, will confirm. That teacher will have been denied the remainder of his career and will be ruined and in tatters and believe me it can happen. Anyone who has dealt with these matters over time in the courts knows that these injustices can occur and do occur. I think it is the height of unfairness and injustice not to give to people in those circumstances where they face a loss of their livelihood, a chance to have that question attested one more time in some other form.

So I would want to say to the minister by way of last appeal, can we not open this a little wider? Can we not allow this central question, as to whether the dismissal was justified, that is to say whether the conduct, the given facts were, did they amount to professional incompetency, or unprofessional conduct or immorality or did they, was the teacher neglectful of his duty; does he suffer a physical disability; does he suffer a mental disability? You can see that those are very subjective areas.

One may ask oneself, what amounts to immorality, sufficient to warrant a dismissal? What amounts to physical disability? Is it failing eyesight or failing hearing or is it pregnancy? Those are all questions which those boards in due course are going to have to contend with and decide whether a given factual situation amounts to one of these six items under the law. When I say a right of appeal, I don't mean a right of appeal under which the appeal tribunal would go all over the facts again. I wouldn't like to see that. None of us would. The appeal tribunal has to take the facts as found by the board of reference in the first instance and that's the situation with most appeals. When one goes to a court of appeal in a civil action, you take the facts as they were found in the lower court in type form and give them to the court of appeal and the court of appeal is bound by them. They don't even inquire into the factual situation. All they do is determine whether or not those facts justified the decision applying the law to the facts. So we aren't here talking about an appeal which would mean, in effect, a new trial or a new hearing or the appeal tribunal going into the whole area of fact again. It would have to take the facts as found by the board of reference. The question that should be appealable though is whether or not, fitting the law to those facts, the right decision was made.

There are two or three decisions that will be made by the board of reference. One is to confirm the contract, one is to then reinstate the employee, the other is to find that the dismissal was unjustified and there could be some additional orders made as well such as granting to the teacher, in certain situations, six months salary in lieu of reinstatement or 18 months of salary as damages. Even that assessment is not open to any appeal on either side. What I would like to see us do and I believe we could do it is to permit the central question to be tested on appeal with a provision for time limits on, perhaps 15 days, within which then notice of appeal had to be filed and a decision having to be rendered within 60 days. Do you know that that avenue would actually be less time consuming than the current avenue because it's straightforward and it's direct. At the moment, if a board of education wants to delay a situation or wants to harass a teacher, the tools that you are putting at its disposal under this act, as it stands at the moment, are more effective from their point of view than the simple direct appeal that I talked about. Do you know that that's a fact. What you're arming a board of education, if it wants to harass a teacher, with more in this act in the way of instruments of harassment than what it would have if it had that direct very simple appeal that I talked about and if the minister wants to argue that proposition with me, I will be pleased to show him how, in detail, the board of reference, the board of education, can use the instruments in this act to delay and harass and cost a lot of money to a teacher in a given situation. That's another reason why I say to you it would be better to have a direct simple right of appeal so people wouldn't resort to these other indirect instruments to attack.

Let me make one last point in respect of this, that we are by no means the first sort of group of men who have sought some mechanism to make a decision in circumstances of this kind. This isn't new by any means. People have been searching for 300 years and in this country 100 years for a system by which you can get justice in a given situation. They began many years ago with a fairly embryonic concept and a fairly sort of rough justice system, which is much like the system under Bill No. 22. That's a fact. That's what they started with. Eventually, over time, they evolved a system

of appeal and rules with respect to the appeal and as it evolved, it's whittled down the possibility of error. Error still occurs but it has whittled it down, smaller and smaller and smaller. Now what we're doing is going back to an instrument in this act with respect to this appeal which is very rough, which is embryonic in terms of its growth because it's a very blunt little instrument and there is no refinement to it to ensure that error is kept to a minimal. What I ask of the minister is to consider at least one more step and that is, to let that decision, the essence of the decision, be appealed to one more voice, that's all. Ideally, I think it should go to the court of appeal but I am prepared to concede that you have to draw the line somewhere. What I ask you to do is to add at least one additional level of appeal. If you were the teacher in these situations, if a subjective judgment of the kind that can be made under this act with respect to immorality, or physical or mental disability was made as against you, and the board of reference made its decision, that it was binding and you have no more avenue, you would be the sickest person in the world, because you see another 20 years ahead of you in which you could not teach again in this province or any other province; you may have a family and you are shattered. You are shattered, because of the judgment, essentially of one person. Because, on one side of the board of reference is a teacher rep, on the other side is a trustee rep, it really comes down to one person making the decision as to whether or not, in the given factual situation, the firing was justified. You would be desperate if you were a teacher in that situation. You would want and expect your system to give you at least one more avenue of appeal to test it. And people in those desperate circumstances, should have that one last avenue.

Some Hon. Members: — Hear, hear!

Mr. Cameron: — Mr. Chairman, there are no politics in this situation, obviously. The minister, I give him a good deal of credit for having brought in some amendments in respect to other areas of the bill. Some, I think, at the urging of the trustees and some at the urging of others including some urging here, and he has shown a general willingness, in my view, to listen to some of the arguments, to try to understand them and to understand them and bring amendments in, in consequence. The one area here in my view (and this is only my opinion), the one last area in the bill of major concern, where I think we need some rethinking, is in this question of appeal. And what I would like to ask of you, as I say there are no politics in this situation. Obviously, it is a straight question of substance of what is right and what potentially in the future will be right, to look to see if we can give the kind of appeal that I have just put to you. And I think if we would put our heads to it, I think we could in fact, do it.

Some Hon. Members: — Hear, hear!

Hon. D.L. Faris (Minister of Education): — Now, Mr. Chairman, of course there has been a lot of thought over many years, about all of these questions. Boards of reference are not new in Saskatchewan. We have had boards of reference from mid year terminations, over 40 years. When members opposite were the government they had a board of reference that had no appeal procedure whatsoever.

Mr. MacDonald: — More than one.

Mr. Faris: — Don't hint, Cy. So this concern apparently is a new one or at least I thought you have some sort of magical answer to it. The point which was raised about

the Moosomin situation, that was not a board of reference. The point was raised about some American situation, that was not a Saskatchewan board of reference. You can go around the world and find different examples and so on. The major problem here is that the member claims to be speaking from the point of view of the concern of teachers and so on. I can only say that he has not been listening to what the teachers have said in this regard. They have not asked, they have not asked for the proposal that you suggested. In fact, they have opposed it and that is all I can say. You may think that you are opposing the process in your arguments, I suggest that you are opposing a process which the teachers indicate that they support.

Mr. Lane (Sa Su): — Mr. Chairman, I would like to direct several brief comments to the matter of the amendment which has been brought into the House by the hon. minister.

I would like to direct hon. members attention first of all to parts (b) and (c) of those amendments. I would like to suggest to the minister that really, what we have there, while there are two sub headings we really have basically one substantive matter. In other words, whereas an appeal allowable in the event the board of reference lacked jurisdiction, or that (c) the board of reference exceeded its jurisdiction, really it is two different ways of saying the same thing. In other words, was there an excess of jurisdiction? So that is one matter of appeal and one other one, 'error of law in the face of the record'. Now, generally speaking, we are dealing here in this particular amendment and on this particular topic with what the lawyers and the legal system generally refer to as the area of administrative law. Now what happened over the past several years, I think it is fair to say that legislatures and parliaments attempted to get as many times as they could, matters of what they considered minor importance out of the court system to prevent, because the court system is tremendously expensive the whole judicial system costs a lot of money to get things settled quickly and expeditiously and with this ceiling in the minds of legislators came a vast proliferation of tribunals and boards and various quasi judicial bodies established by legislation to hear what they consider to be minor matters. Well, what the legislator found out very quickly was that even with these tribunals hearing the matter, invariably the matter ended up back in court again, because what would happen is that, in some fashion, the tribunal or board or commission or whatever that was empowered to hear this trial or to hold a hearing had made some error and lawyers on one side or the other would grab the matter and take it back into court. So then a practice developed, which I consider and which many consider a very dangerous practice, and that was to attempt to prohibit them matter from getting beyond the board of reference. So what developed was a practice of and there is a legal term for it, they are called privative clauses inserting into the legislation a privative clause saying you are prohibited from bringing this matter into a court of law.

Now, I want the minister to take note of this. Even with the advent of privative clauses the court of common law jurisdiction found that they would allow a matter to be heard on appeal in the court if, (1) the tribunal or board or commission or whatever had exceeded its jurisdiction. In other words done something which it was not empowered to do because that board, tribunal or commission has only those powers which the legislation gives to it. If it does something outside of that realm then it lacks jurisdiction and that is the matter which can be reviewed by the court. Or (2) if there was an error of law in the face of the record. Now it is more complicated than that but from a very simplistic point of view those were the ways that you got around the privative clauses.

Now, let's come back to the legislation. As the legislation was written there was no privative clause, there was no prohibition from going to the courts. Now it was implied

because in the legislation it said, 'pursuant to this section the board of reference shall be final and binding upon the party', but it didn't take that extra step and explicitly say that you could not take it into a court of law. Now the point I'm making is this. Even if you had gone one step further and put in a subsection prohibiting appeal to the court, even with a privative clause, the courts certainly of our jurisdiction have held time and time and time again that you can still appeal on a matter of excessive jurisdiction or from the other end of it, lack of jurisdiction or error of law in the face of the record.

Now, our position is quite simply this, we felt when this matter of binding arbitration came into the House that we were somewhat concerned. Now, number one, the board of reference that was nothing new there have been boards of reference before but teachers have asked through their STF organization, that they wanted something that was not only some way of getting a decision but a decision that was final and binding. I don't think that trustees are very vehemently against that proposition. I think they are prepared to concede that there should be final binding decision rendered on a matter in dispute between the two parties.

Now, if indeed this section that the minister proposes now by amendment adds something by way of appeal we would be very happy to support it because we would like to see some method of curtailing those very broad powers being finalized in the hands of the board of reference. But, you know, Mr. Minister, we are going to be happy to support you on this but I simply say I don't see and I'm being quite sincere about this I don't see how you've added any right of appeal that didn't exist by law even if you had had and I would be interested in hearing the minister's opinion on this, what opinion he has gotten from his legal experts even if you had had a privative clause prohibiting further action in the courts. Now, the position is this. We would like to support you on this matter. We would like to see a right of appeal. We hope that this adds something but we don't see it. Quite frankly, we don't see how this adds anything to what exists already in statute and I would like to hear the minister's comment.

Mr. MacDonald: — Mr. Speaker, before the minister goes. I don't want to prolong this debate. I don't think anybody could be more eloquent in the appeal than the member for Regina South in outlining the proposition that we are trying to put forth. I happen to disagree with my colleague from Saskatoon Sutherland one to one, the very thing that the trustees are against is the binding arbitration or the finality of the decision of the board of reference. I would like to point out that the arguments presented by the member for Regina South are just as true in relation to the board of education as they are in relation to the teachers. There can be an injustice in either case.

In other words, a board of education or the board of reference could indicate to the board of education, they must rehire or reinstate a teacher. That teacher may be a thorn in the side of the school system beyond repair. The teacher could be a complete thorn in the side of the harmony within the rest of the teaching profession; the community could refuse to accept it, and so forth. So it could be just equally as important for the trustees that this method of appeal or this finality of the decision of the board of reference be available to appeal.

I want to say that the minister's only argument that I found extremely weak, because he is arguing from a weak position and I don't say that with any disrespect, because I, like the member for Regina South indicated yesterday, that he has shown a flexibility and a willingness to listen. But in this particular one when he says the STF didn't ask for it. But when I say that I don't think that the member for Regina South is arguing on behalf of

the STF; he is arguing on behalf of the people and that the organization of the Saskatchewan Teachers' Federation has one goal to achieve at this time. A few years from now they may well come back and argue just as vigorously, as the member for Regina South, about the need for an appeal if one or two decisions go against them and the teacher is left flatfooted. I have found the STF, on occasion, not always correct, when I say that even though they went and argued for the best interest. I go back to area bargaining and I was one of those who absolutely believed that the biggest benefactor of area bargaining was the Saskatchewan school teachers. That all of a sudden the teacher in Yellow Grass, who had a different sabbatical position than the one in Milestone, seven miles away, all of a sudden they equalized it.

The only opportunity to equalize opportunity between rural and urban teachers was through a larger bargaining unit. The only way in which you could get teachers on an equal salary throughout the province was to expand the units of bargaining, instead of the 120 or 140.

Despite my arguments the STF didn't agree with me. They eventually went for provincial bargaining, the biggest bargaining area. But I thought they were absolutely wrong. I thought they did a great disservice to rural teachers. They didn't agree with me, but that is neither here nor there. I am just saying, because the STF doesn't agree with something as important in principle, as the right of an appeal and the difficulty that it could probably have.

You and I know that how many cases do appear before a board of reference, three, four, five a year. Maybe one or two. This right of appeal is going to make no difficulty and no great cost. And one of the things that the member for Regina South has also indicated, that when you turn around and put a time frame on it, when you restrict it to the Court of Queen's Bench, it limits the expenditure that may be required by the board of education or the school teachers. I also think that there should be a clause, in the assignment of costs, as we brought up before that would limit appeals by a teacher or by a board of education when they know that the appeal judge, or that the position is a weak one or doesn't have strength just for the sake of appealing.

I am, once again, going to ask the minister, on behalf of the members of the caucus, and I say all individuals in Saskatchewan, to stand this clause. Go through the rest of the bill. Think about it and come back at the end, and if you don't do it we can discuss and argue it. But I hate to see it go by now and say, no, flatly and go ahead and proceed with the bill, because I think you would be making a serious mistake. I think that it would be a mistake, not necessarily a political mistake on your part, because as you say the STF appears to be on your side, even though I think it is a mistake on their part. I think with a great deal of consideration with the time frame and with the cost factor being looked after, STF would have absolutely no objection.

So I urge the minister to reconsider his position and I don't think we can say much more.

Mr. Lane (Sa Su): — Mr. Chairman, I wonder if I can clarify something before the minister answers the question.

I think the member who just spoke misinterpreted something I had said and I assume he did it unintentionally, so I am going to have another run at it, to make sure there is no confusion in this regard.

When I was talking about, when I was talking about the binding award by the board of

reference, I didn't indicate that the trustees had been happy with that. What I indicated was this. I said I didn't think the trustees would argue that at some point in time down the road there should be a final and binding decision. This is something which the STF asked for. I think everyone would agree, and I don't think the SSTA takes exception to it because if it did it would be an illogical position, that there should be some final binding decision at some point in time.

Now I think the SSTA were arguing, and I believe with some merit, that given the powers and quite frankly I am surprised that the STF wasn't arguing exactly the same thing given the powers of this board of reference, very broad powers, that this might not be the appropriate place to end the matter and make it final and binding, but there should be some appeal to the courts.

Let me, once again, state our position clearly and concisely. We would support and do support the right of an appeal to the courts. We believe that what you have done here, and I say this sincerely, Mr. Minister, you have not really added anything. It is redundant in the sense that these rights of appeal would have been there even had you gone one step further and had in this legislation a privative clause to prohibit the appeal to the courts on the face of the legislation. We hope it adds something and we will be prepared to support it. We would like to see better but if that is the best we can do that is what we will settle for.

Mr. Faris: — Well, I just want to say that in regard to this whole area, we are not talking about ending the career of a teacher. There have been decisions made by boards of reference in the past which the teacher has lost; that teacher has then sought employment in other parts of Saskatchewan and gained that employment. It very much depends on what particular issue and the sort of speculative, highflown examples that are being brought up here are just not realistic at all in our feeling. In years to come I think that this part of the legislation along with other parts will have to be examined as to just how it works. It may work out to the general satisfaction of this legislature and if it doesn't then we can have another look at it. In regard to specific questions of just what this does or doesn't do, I am afraid it depends which lawyers I speak to. There have been four or five lawyers involved in the drafting. The members raises some points about (d) and (c) and so on in their relationship and the advice we received is that this is the way it

should be drafted. I am sure that if we were to go to another group of lawyers we might come up with another drafting. This is in our understanding how far we should go at this time. We feel that this is the best position at this time. If it proves to have some of the problems that are pointed out by members opposite, I am sure that the educational community in this province will want to have another look at it at that time. But it is our advice that this is what is acceptable. I can only say to the member for Indian Head Wolseley that I do consider the STF a more reliable voice of the teachers in the province than the hon. member. I am aware that there are differences of opinion with any particular group.

An Hon. Member: — . . they differed . .

Mr. Faris: — they have differed with the hon. member in the past, they may perhaps in the future. I may say that in discussion with individual trustees I find different points of view on these matters. All in all we feel this is what is workable and what is best for education at this time.

Mr. Cameron: — Mr. Chairman, I want to make just one more point to the minister and I suppose it will be of no value except when we come back in 15 years to change this section because someone is going to be a sacrificial lamb along the way. There is no question, it is inevitable, it is only a question of time before that happens and the legislature will again be faced with this very question as to whether to permit some right of appeal and at that point in time it will opt to change the legislation.

Let me and I understand you, you always run the risk of sounding so blessed lawyerly when you are making these arguments but when I said to you if you don't give to people, this is either the board of education or the teacher, a direct way to attack a decision that they are dissatisfied with, they then seek indirect ways to attack it. The law of Saskatchewan allows a whole series of ways to attack a thing collaterally. You have no main attack, you have no right to appeal in a main direct way so what they do is you induce people to do it in a collateral way. You can make an application for a writ of prohibition; that is, you apply to the court to prohibit the board of reference from hearing the case. You have a right, the board of education or the teacher has the right to apply for a writ of prohibition to the courts and that is subject to appeal. Then once the decision comes down they have a right to proceed by way of certiorari to quash the decision of the board. All these are collateral ways to attack a thing. If you shut people off from a direct way to do it, they will seek ways to do it indirectly and the law of Saskatchewan allows them to do it. That is why you get these endless applications in the courts for writs of prohibition, writs of mandamus, writs of certiorari. They are ways that people seek to attack indirectly what they can't do directly. And until we legislate against writs of certiorari and mandamus and prohibition we will always have that situation. That is why I said to you, that if you were designing a situation to give instruments to certain people to harass others, this is the best way to do it. Because you can have these questions tied up in the courts endlessly and these other collateral attacks under these various writs and they are all appealable. And that's what happens when you shut people off from access to some direct route. I guess we'll never sort of persuade you to do this, time will show you what a great mistake we've made here and somebody will sort of pay the price in due course for the changes that will come about.

You said we don't speak for the teachers. Mr. Minister, I had a discussion with the STF people. Their principal objection to any appeal is that they, I got the impression that they've been kind of burned so often in the courts that they are very sceptical about any system that sort of draws the courts into the equation. Do you know why? Because of

the existence of the law currently which gives people these collateral attacks that I talked about. That's why they are so frustrated with the system. Because you shut the door here and people seek all kinds of doors all around and they go on endlessly in the courts. The Minister of Municipal Affairs will remember that one situation in Moosomin. There was no sort of way to get that thing resolved fairly quickly, subject to a rather rapid right of appeal and then it's over. When I was talking to the STF people with respect to this, they were not opposed as a matter of principle to a right of appeal; I think it is fair to say in my conversations that was a rather attractive notion in theory. What they objected to is that it cost so much money and secondly it seems to take so long when a thing gets bound up in the courts. Those were their two principal objections and I can understand the frustration that they have with the court system, given the sort of writs that always apply to these kinds of boards. But, as I say, until the Attorney General brings in a statute prohibiting those kinds of writs of actions of that kind, you are always going to have this problem. Right now, I tell you, you've armed the boards of education with more instruments to attack collaterally a decision by a board of reference, before it ever gets underway, while it is going on and after it has made its decision. You've given them all kinds of instruments here which they wouldn't have if there was a direct route or a direct appeal. I'd just ask you to consider that too in considering . .

Mr. Lane (Sa Su): — Before you call a vote, I wonder if I could direct a brief question to the Attorney General.

Mr. Chairman: — No, I'm sorry the vote has been called and you're late.

Amendment agreed to on the following recorded division.

YEAS 42

Thibault	Banda	Allen
Bowerman	Whelan	Koskie
Smishek	Kaeding	Johnson
Romanow	McNeill	Thompson
Messer	MacAuley	Lusney
Snyder	Feschuk	Collver
Byers	Faris	Larter
Kramer	Rolfes	Lane (Qu'Ap)
Baker	Cowley	Birkbeck
Kowalchuk	Tchorzewski	Ham
Matsalla	Shillington	Bernston
Robbins	Vickar	Lane (Sa Su)
MacMurchy	Skoberg	Wipf
Mostoway	Nelson (Yktn)	Katzman

NAYS 9

Wiebe	Penner	Stodalka
Merchant	Cameron	McMillan
MacDonald	Anderson	Clifford

Clause 222 as amended agreed to on the following recorded division.

YEAS 42

Thibault	Banda	Allen
Bowerman	Whelan	Koskie
Smishek	Kaeding	Johnson
Romanow	McNeill	Thompson
Messer	MacAuley	Lusney
Snyder	Feschuk	Collver
Byers	Farris	Larter
Kramer	Rolfes	Lane (Qu'Ap)
Baker	Cowley	Birkbeck
Kowalchuk	Tchorzewski	Ham
Matsalla	Shillington	Bernston
Robbins`	Vickar	Lane (Sa Su)
MacMurchey	Skoberg	Wipf
Mostoway	Nelson (Yktn)	Katzman

NAYS 8

Wiebe
Merchant
MacDonald

Penner
Cameron
Stodalka

McMillan
Clifford

Section 223

Mr. Chairman: — We have an amendment to 223 by the member for Maple Creek. Amend section 223 of the printed bill:

(a) by striking out 'shall be filed within 14 days' in the second line and substituting the following, 'may where no appeal is taken pursuant to section 226 be filed,' and,

(b) by re numbering the section of section 222 of the bill.

Mr. Cameron: — Mr. Chairman, I should explain that we proposed to bring forward an amendment which, on the advice of the Law Clerk, is an amendment to be made to section 226. It is an amendment which will provide a right of appeal directly to the Court of Appeal on short notice. So that the amendment to 223 which is now before you, would be necessary in order for the section 226 as amended as we bring it in. So that it is a consequential amendment to section 223 to pave the way for the amendment to 226, which would give a right of appeal to the Court of Appeal. That is the reason for the amendment to 223.

Section 223 agreed, amendment negatived.

Section 224 as amended agreed.

Section 225 agreed.

Section 226

Mr. Chairman: — We have an amendment to section 226.

Strike out clause 226 and insert the following:

(1) Notwithstanding the provisions of section 222 as amended a teacher or a board of education that is aggrieved by an order made under section 221 may, within 30 days from the day on which the order is made, appeal to the Court of Appeal for Saskatchewan who may, upon hearing the appeal, make any order:

(a) confirming, reversing or varying the order made under section 221;

(b) respecting costs; that it considers equitable.

(2) The appeal shall be by motion, notice of which shall be served upon the respondent and upon each of the members of the board of reference within 30 days from the day on which the order is made under section 221 and not less than ten days before the day on which the motion is returnable.

Mr. Cameron: — Mr. Chairman, it is fitting that the Attorney General hollers, never, to this one. I can understand that, given his general disinterest in this whole area, which I can tell you I have found appalling, as an Attorney General. I doubt whether the Attorney General has given the Minister of Education any real advice in respect to this whole area, because if he had what he would have told him is this, that under this act as he now has it drawn, without the right of appeal, what he is doing, and this is what the Attorney General should be telling his Minister of Education is, he is providing all sorts of avenues to collateral attacks to decisions by a board of reference; that he is leading his Minister of Education to deny the people what is their fundamental right in a democracy and that is the right of appeal. A fundamental democratic right is always the right to appeal.

As this act currently stands, and you can laugh but I'll tell you you won't laugh when the day comes when someone is going to, have to move amendments in this legislature to give people rights of appeal, because you are going to have situations in education like you had in Medstead with the Labour Relations Board. That is what you are going to find. When people don't have direct access they look for indirect access and the Attorney General should be telling his Minister of Education that the laws on the books which gives them all kinds of ways to attack indirectly, what they can't do directly.

Before the board of reference begins its proceedings they can apply for a writ of prohibition to the Court of Queen's bench which is appealable to a court of appeal, the Supreme Court of Canada. How long do you think those things take? If you have got any

experience you know that they take months and a great deal of expense to sort away. That is even before you start. Once the board is under way you can attack it collaterally too by an additional writ of prohibition or by applying for a writ of certiorari, arguing that the board is exceeding its jurisdiction.

The hearing of the board is held in abeyance until the decision of the court on that application, that's a second avenue of collateral attack open to a board of education or to the STF in respect of a board of reference while it is going on. The board of reference has to suspend its hearing until that question can be determined in the courts. Where does the application go? It goes to the Court of Queen's Bench. Where do you appeal? You appeal to the Court of Appeal. Where do you go then? You apply for leave to the Supreme Court of Canada to appeal there.

Now let me tell you about a writ of mandamus. If a board of reference has an obligation to hold a review under this act, it is open to both the STF and the Saskatchewan School Trustees' Association to apply for a third kind of writ, and where does it apply? It goes to the Court of Queen's Bench. What writ is it? It is called a writ of mandamus a writ of mandamus to compel the board of reference to do something which is its obligation under the act.

Another way, collaterally and indirectly, you attack what you can't do directly. Where does that go? It goes to the Court of queen's Bench. When? At any time during the course of the proceeding or after the proceeding. Where does the appeal go? It goes to the Court of Appeal. Where do you go then? You go the Supreme Court of Canada and you ask for leave to appeal. If the Supreme Court says yes, and they are going to say yes to some of these because it is a new area, then you have an appeal before the Supreme Court of Canada.

If you want a mine field in front of people in education in terms of the law, I'll tell you my friends, you have sure given it to them, all because in the first instance your Attorney General has taken a neglectful attitude in this whole area. I still hear you making argument that show that you are completely and totally misinformed on the application of the law as it applies to court hearings. That the arguments which are so weak that they impress nobody, not even your own members. That's what happens. Don't you understand that people, when they are faced with a decision which is binding upon them in respect to a question which is important to them, particularly in respect to a question where emotions are running high, if you cut off access by those people to some way to appeal directly to do it, in their frustration they will find all kinds of ways to do it indirectly. When they do it you will see harassment of a kind you have never seen if you think the Medstead situation as it applied to the Labour Relations Board was disconcerting to those people and your people in that area. You wait until you see what's going to happen under these sections without that right of appeal. Why can we not get that point through to you. You keep saying the STF is opposed to it. In our discussions with the STF we found there was no fundamental opposition to the concept. We found a willingness to look at an alternative which was better than what currently exists. If you can just satisfy them that it's not going to be a costly drawn out procedure, then they are prepared to look at it and I think they would be prepared to accept it as a matter of principle. What's standing in the way of that understanding and agreement by them is the state of the current law. Until the Attorney General is prepared to bring before this legislature an omnibus bill to prohibit in this province writs of prohibition, mandamus and certiorari as they apply in this administrative area then I tell you that there is all manner of actions in the court that can be taken indirectly that are frustrating, time consuming and very expensive. And I tell you that you ought to have a

look at this and there ought to be a right of appeal.

Amendment to clause 226 negatived on the following recorded division.

YEAS 19

Wiebe	McMillan	Ham
Merchant	Clifford	Bertnston
MacDonald	Collver	Wipf
Penner	Larter	Thatcher
Cameron	Lane (Qu'Ap)	Katzman
Anderson	Birkbeck	Lane (Sa Su)
Stodolka		

NAYS 32

Thibault	MacMurchy	Tchorzewski
Smishek	Mostoway	Shillington
Romanow	Banda	Vickar
Messer	Whelan	Skoberg
Snyder	Kaeding	Nelson (Yktn)
Byeres	McNeill	Allen
Kramer	MacAuley	Koskie
Baker	Feschuk	Johnson
Lange	Faris	Thompson
Kowalchuk	Rolfes	Lusney
Robbins	Cowley	

INTRODUCTION OF GUESTS

Mr. R.L. Collver (Leader of the Conservative Opposition): — Mr. Chairman, I wonder if I might interrupt the proceedings for one moment to introduce to you and through you to the other members of the Assembly, a relative of mine from London, Ontario, a cousin of mine, Mr. David Collver who is one of the only relatives that I have in this world who has ever come to western Canada and we were very pleased to have him here and I hope you'll all help me in welcoming him from London, Ontario out to Saskatchewan.

Hon. Members: — Hear, hear!

Bill 22 (continued)

Mr. Stodolka: — Mr. Chairman, we are very disappointed as the caucus on this side of the House. We thought that we had non politically presented what we thought was a real improvement to the mechanism that is provided for in Bill 22. I have the feeling that the Attorney General didn't recognize until just a few minutes ago that we really did have a point and that it was a little too late to do anything about it. But, as the member for Regina South said, I am sure that we are going to have problems in the future and I'm sure that there is going to be probably another day which we are going to have to deal with this particular problem.

I would like to congratulate the member for Regina South and to thank him for taking us through this section as far as our caucus is concerned this section in which we dealt with the appeal court. I think that all members of the House will recognize that there was a good deal of thought had gone into it. Again, as I said, we were disappointed. This is the one section of the bill we had hoped that we might have some influence on the members opposite. We appreciated the other amendments that were accepted and put into the bill at an earlier date. Even though we are very, very disappointed that we did not get this section of the bill changed, when it comes to the final reading of this bill we will be voting for the bill as it is now presented, again with the reservation or I should say with the feeling of disappointment by the very fact that we are sure that we are going to have problems in the future. It is adequate in this respect but because there are 370 other sections that we are satisfied with, we will be supporting this bill.

Section 226 agreed.

Section 227

Mr. Chairman: — We have two amendments and I am taking the one which applies first. This is by the member for Maple Creek (Mr. Stodalka). That we amend 227 of the printed bill:

(a) by striking out the first six lines and substituting the following:

A teacher shall be responsible for the quality of his teaching services, co operation with staff colleagues and administrative authorities in advancing the educational standards and efficiency of the school, participation in educational planning by the staff and the board of education. And a regular advancement of personal professional competence and without restricting generality of the foregoing the teacher shall . .

That's the first amendment.

Amendment negatived.

Mr. Faris: — Mr. Chairman, I thought we were alternating in opportunities on these amendments and I thought it was our . .

Mr. Chairman: — Yes, but this one comes first in that section there. Yours is next here.

Second, is an amendment by the minister. We amend section 227 of the printed bill:

(a) by striking out for in the first line and substituting 'in'; (b) by striking out 'in' and 'advancing' in the second line and substituting 'for the advancement of'; (c) by inserting after 'education' in the fourth line, 'and the'; (d) by striking out 'give instruction to' in the first line of clause (a) and substituting 'diligently and faithfully teach'.

That's the amendment that's before you by the minister.

Amendment agreed to.

Mr. Chairman: — Now there is another portion and this is submitted by the member for Maple Creek:

(c) by striking out 'immediately' in the third line of clause and substituting (i) 'by the conclusion of that day'.

Mr. Faris: — Where is this amendment?

Mr. Chairman: — It's by Mr. Stodalka, the member for Maple Creek, and it amends section 227 of the printed bill and it's the last full clause on that page. We are taking them in the order that they come within that section.

Mr. Penner: — Was that amendment that you just read related to section (i) of 227?

Mr. Chairman: — Yes, the clause (i).

Mr. Penner: — And that was where the word 'immediately' is removed and the words 'by the end of that day' inserted.

Mr. Chairman: — It is the (c) part of the amendment that is presented to me here.

Mr. Faris: — We do not have a list of their amendments as presented to you so when you say (c) it means nothing to us and we think you mean (c) in the bill. In any case, we would like to have that vote so we clearly know what section we are dealing with.

Mr. Stodalka: — Are we open for comments on the amendment?

Mr. Chairman: — I will need a minute to look at this.

Mr. Stodalka: — It is section (i). I might make some comments if they do not mind. We felt that there was a problem if you might read the section it says they 'exclude any pupil from class for overt opposition to the teacher's authority or other gross misconduct and immediately report in writing to the principal the circumstance of that exclusion'. The problem is the word 'immediately'. We felt that it was impractical within the school system to stop everything and have the teacher write up a report to send down to the principal's office as to what had happened in the classroom. Our amendment is designed to indicate that as long as the report is in the principal's office by the end of the day, it would be satisfactory. We just felt that administratively the word 'immediately' is improper. It is just too difficult to do. By changing the amendment as we have, we have given the person involved some time during the day in which he can prepare the report to submit to the principal's office.

Mr. Faris: — Mr. Chairman, we do not see any problem with the present wording but if this clarifies it in some people's minds, we are willing to accept this amendment.

Mr. Chairman: — That portion of the amendment is submitted by the member for Maple Creek, and I will repeat it:

By striking out 'immediately' in the third line of clause (i) and substituting 'by the conclusion of that day'.

Amendment agreed to.

Mr. Chairman: — Back to the minister's amendment and it is (e) by striking out clause

(n) in the third line of clause (n) and substituting clause (l). All those in favour of that agreement?

Section 227 as amended agreed.

Sections 228 to 231 agreed.

Section 232

Mr. Chairman: — We have an amendment to that by the minister. Amend section 232 of the printed bill by:

striking out ‘becomes part of a local agreement that’ in the third and fourth lines of subsection 3 and substituting the following:

Subsequently becomes part of a provincial agreement, the local.

Mr. Faris: — Mr. Chairman, I just want to explain that that amendment is simply to make sure that this bill reads exactly the same as the previous bill and its intention. There was some change in the Legislative Council I believe in the earlier draft and some confusion.

Section 232 as amended agreed.

Section 233 agreed.

Section 234 as amended agreed.

Section 235 agreed.

Section 236 as amended agreed.

Sections 237 to 244 agreed.

Section 245 as amended agreed.

Sections 246 to 251 agreed to.

Section 252 as amended agreed.

Sections 253 to 371 agreed.

Sections 302 371 agreed.

Section 372

Mr. Lane (Sa Su): — Mr. Chairman, I have a few comments, if I could on section 372. As my learned colleague from Souris Cannington pointed out one day in the House, this is probably like wasting our sweetness on the desert air but we would like to make one last stab at it. Now, quite frankly this section puts us in a dilemma. The minister has done a lot of things to clean up bad parts of other sections but this 372 in a sense colors the entire legislation. Now, I would ask the minister to direct his attention once

more, one final time, to three particular parts of that section, of 372.

First of all, subsection (a) now that is probably the most repugnant piece of legislation that has come before this House in my short tenure here because it gives the minister, virtually gives the minister, the power that was traditionally reserved to the courts. Traditionally, we here are to be the lawmakers and then there is the enforcement wing and the interpretative wing and that is the court. Now why under the sun would you in any way, shape or form want to have the power to define words used in the act? Why not leave that up to the courts? Now, if you do not need that power, and I suggest you do not, why leave it in the act, in 372(a)?

Now the devastating thing is this, Mr. Chairman. If you combine section 372, sub (a) with (r) and (s) you have in the hands of the Minister of Education virtually unlimited power to do anything. Let us look for a minute in his wisdom, in his opinion, the minister may, number one, define what the act means. And he can say, well, it does not matter what the court says, that is wrong. I'll tell you what this act means. We will mean what we want it to mean at any particular time.

Then you go down to (r) and it says, 'governing the procedure to be followed with respect to any proceeding or thing authorized', etc. 'in the opinion of the minister, insufficient or inapplicable'. Now virtually, after having been given the power to define this act, then you are given the power to delete anything which you do not feel is necessary in the act or add anything in the act. In other words, armed with this legislation, the Minister of Education has the power to rewrite the act at any time he sees fit without coming before this legislature to do so. Now, granted, there are times when the Minister of Education will need a certain amount of flexibility to deal with situations as they come up. But do not forget that this piece of legislation this simply isn't an administrative piece of legislation this act has with it, Mr. Minister, penalties, offences, people who can be found in breach of the law can be dealt with your penalties. Now surely, in a situation like that, you will concede that you should not be allowed the power to change, at your whim, in your opinion, whether it is right or wrong. You don't have to have in the law, if this is going to become the law, you don't have to justify the correctness of your opinion. It can be any kind of hokery pokery opinion, but as long as it is your opinion and as long as nobody can prove that you held it with bias. It doesn't have to be an intelligent opinion. Then in case that hasn't done the job, first of all, the power to define anything in the act, then the ability to change at random, add to or delete from, whatever, in his opinion he deems advisable or if it is inapplicable or insufficient in his opinion. Then just to make sure that every single loophole is covered, subsection (s) related to any matter 'considered necessary or advisable to carry out the purpose and intent of this act'.

Now, Mr. Minister, you cannot stand up in this House and before the people of Saskatchewan and say that those are not some of the most wide ranging powers granted to any minister anywhere.

Mr. Chairman, in anticipation of what the minister is going to say, I don't give a darn about what the minister of Ontario has, or the minister of Alberta. If they have this kind of legislation it is wrong and I say so here. It is wrong to have that kind of power. In anticipation of what you are going to say, if they have it, it is wrong. I agree with you. Let's talk about here, in Saskatchewan.

This should not be given into law and I ask you one more time to change your mind on this and to repent while you still have time and back off from this section. Those

particular sections, those three, are very offensive sections.

Now the other thing the minister is going to say is, well, we ordinarily don't need that kind of power. Well, if you don't need it, why put it into the act? Let's strike it out right now. Let's do the right thing and take it out now.

Mr. Faris: — I just might say, Mr. Chairman, no, I am not going to tell you what is happening in Alberta or Manitoba or Ontario or British Columbia and so on. All of these powers are found in legislation there. You will find various parts of this in statutes throughout the history of Saskatchewan. There is no question. I don't think anybody is raising that point, but, of course, it should be read into the context of the preamble there which says that, 'may make regulations that are ancillary to and are not inconsistent with this act.'

I may say the whole thing is in that context and if there is any questions arise here as to the use of these powers and so on, they will, of course, finally be determined in court. I do also want to say there is a distinction here which the member has apparently missed and that is, that these are not powers given to the minister but to the Lieutenant Governor in Council which is different from the other provinces. Where province after province it is the minister himself and not the Lieutenant Governor in Council, I don't think we are going to persuade the member that just because it's throughout the law in Saskatchewan and it's throughout the laws all across Canada that it makes sense.

Mr. Lane (Sa Su): — The fact is that the Lieutenant Governor in Council is the cabinet. And you're not even going to be some of the backbenchers that are sitting there smiling, they're not going to be able to make a decision, they aren't going to be able to help or to guide your opinion in any way. And you know and I know and it happens in other jurisdictions as well that a lot of laws coming out of the back end of the cabinet room and not even your party gets to decide what the law is going to be. Now, I think that this is important and well, I want to make another point. I'm glad you brought that up because I've talked to some teachers about this. Some teachers that have a bent toward the NDP government. You know, the teachers are all over the place. I'm happy to note that if you watched my campaign, Neil, that there were a lot of teachers in my campaign. I think that polarization, that we talked about before, isn't happening on this particular piece of legislation. Touch wood, I hope it doesn't. But the fact is, some of those teachers that are arguing right now, they're saying . . . I got a letter, for example, the other day, this teachers saying, 'I've been an NDP supporter and I believe that the minister should be armed with this kind of power.' Just watch that teacher scream if some other party comes into power, that that teacher doesn't particularly happen to favour. Once that particular government is armed with this kind of power, no government should be armed with this power. So, I simply point out to the minister that to say it's made by the Lieutenant Governor in Council, which is cabinet, they are going to rely on what the minister has to say and so the final decision is going to be made by the Minister of Education wherever he happens to be at that time and I don't think that that kind of power should be given to you or for that matter any other minister. I ask you one more time to withdraw it.

Mr. Stodalka: — The member for Saskatoon Sutherland has been saying, we're concerned too. Really, you begin to wonder why we come here as legislators, when everything that isn't actually written down in the act, then becomes the responsibility of the minister and he can just define almost anything he wishes. I'd just like to direct a comment to the minister. You can almost be more effective on the board of reference because after all, according to this act, you could end up defining immorality; you

could end up defining what incompetence is; the whole works are wide open for you, you could come down and come on with any of these definitions. Is that not correct? You just look at that act. That act allows you to define any word in this piece of legislation. My question is, are you going to try to define those types of terms, the term incompetence, all of the reason for dismissal that we have in the beginning.

Mr. Cameron: — I'm glad the member for Saskatoon Sutherland made the argument and I agree wholeheartedly with the argument. I've made it now so often here that I've wearied myself with doing it. I wish I could convince some of you; I would never convince any of the cabinet to do it but I can't understand backbenchers. Believe me, if you give this some thought, how you guys can accept it? How can you? Now, your function here is to make the law and what you are doing, as the member for Saskatoon Sutherland says, is that you're letting somebody take that right away from you. You're giving it to the cabinet minister, that's what's happening. No government should have the power. I agree with that. Mr. Minister, I noticed and I'll tell you something else. Any Attorney General, you know, who was at all interested in the sort of excellence of the law that was passed in the province, when this proposal was put before him, if he was worth his salt, he would throw this act back to the Minister of Education and say 'go away'. I'm not about to approve any act that's going to take from parliament and from the legislature a power which is it, belongs to it, vested in the cabinet. Nonsense! He would never accept that. I don't know how we've drifted into the situation or the practice where we do accept this. Now, the member for Maple Creek is dead right. There is no question about it. You can define every word in this act, every expression in the act, including the expressions used in section 210. It is within the minister's power to say what is professional incompetency, what is unprofessional conduct, what is immorality, what is neglect of duty, what kind of mental disability disqualifies a teacher. What kind of physical disability. Those are not decisions for a board of education. They are not necessarily decisions for a board of reference. The minister can define all those words. That's what happens. Well, he submits the submission to the executive council and they approve it. We haven't done it for 50 or 60 years. It is a habit which has grown up relatively recently and I'll tell you how it has come about. Because it is very useful and I say this with no disrespect to the bureaucracy but it is very useful to have a section like this for the bureaucracy because when there is any doubt about some provision in an act, all they need do is to find a way, whatever doubt may exist in respect of it. It's sort of an easy way to do it, otherwise the question would have to come before the legislature and opened up to debate, consideration by members, and they would vote on it. It's much easier simply to pass an order in council to do it, you see. It's kind of a lazy habit we have got into here. What we have sacrificed in the process is principle but you people seem sort of stubborn about any matter of principle, you are not even prepared to listen to it, by and large. It's a principle that we shouldn't accept and the backbenchers should look at this as these acts come forward and never be prepared to accept a section that says, 'the minister of the Lieutenant Governor in Council, order in council, can define any section of the act'. That is a broad law making power that they have taken for themselves which belongs here.

Mr. Penner: — Just a further comment, Mr. Chairman, there has been a good deal of rhetoric recently that's come out of the department. There has been rhetoric from the minister and, from officials within the department about the overriding concern of the department to decentralize control with regard to education. A few years ago we had regional offices established under the guise of decentralization. There has been a great deal of talk about giving authority and responsibility to school boards. I refer back to the point that I made yesterday with regard to 91(c) where the convenient little phrase is kept in 'but educational supervision authorized by the board shall be subject to the

approval of the department'. You take a look at that and you take a look at the sections of 372 that have been placed in here and the minister argues they exist elsewhere, you will find little bits here and little bits there. The difficult thing with this is that you have taken all the little bits everywhere else and you have accumulated them all here. You have taken all the little bits of powers out of Alberta and Ontario and British Columbia and so on and concentrated them in an act, where you accumulate them all. I think that anybody related or involved in education can have no other alternative but to be extremely sceptical of any talk of decentralizing and any talk of local decision making, because the minister has very clearly given himself the power to do anything that he likes with regard to education without having in any way contravened the legislation that is before us.

Section 375 agreed.

Section 376

Mr. Stodalka: — Regarding the coming into force of this act. I would like to know what the minister's intentions are . .

Mr. Chairman: — This is on 377.

Mr. Stodalka: — Am I ahead of you, Mr. Chairman?

Mr. Chairman: — 377 I think, is coming into force, we will take it then.

Mr. Stodalka: — The transitional period is the one I am interested in.

Mr. Chairman: — O.K. Fine.

Mr. Stodalka: — There is some concern as to whether or not there will be school board elections held this coming fall, if the act is to come into effect next January 1, which the minister indicated yesterday, is a possibility. Now, if that is the possibility, and let us assume January 1, 1979 is the date on which this act will come into effect, will there in effect be school board elections in Saskatchewan this fall under the old school act? And it would seem to me if it is not the minister's intentions to have school board elections this fall, then it would probably be necessary to bring in some amendment to the existing school act to make provisions for the fact that there would not be elections this fall.

Mr. Faris: — It is our intentions that there would be elections this fall.

Mr. Stodalka: — There will be elections this fall? Has the minister talked to the members of the Saskatchewan School Trustees' Association? I think there is a feeling there that during this transitional period there might be some advantage in not having elections this fall.

Mr. Faris: — My officials tell me that they have not discussed that and that, in fact, that matter was not raised with them.

Mr. Stodalka: — Well, it is a matter, I suppose, the minister could consider after today. We are still going to be here another couple of weeks and I imagine, I hope, wish we could get back and move on and prorogue, but seeing we have some time, it would

be an amendment that would have to be introduced to the school act if we were going to change the fact of having elections. So maybe the minister could consider the possibility that this fall, during the transitional period, that there might not be any elections until the general election in 1979?

Mr. Faris: — We could consider that, but my officials say that the point has not been raised with them up to this point.

Section 376 agreed.

Revert to Section 174

Mr. Chairman: — the minister has brought in an amendment to section 174 of the printed bill, it is amend section 174 of the printed bill:

(a) by renumbering the section as subsection (1) of the section and;

(b) by adding the following subsection to 'notwithstanding subsection (1) in a school in which not more than one teacher is employed the board of education may designate that teacher to be the principal of the school'.

Mr. Penner: — Mr. Chairman, just briefly, we welcome the amendment. The problem that we raised yesterday about the way section 174 was worded would have meant that a teacher in a one room school would have had to be designated a principal. This allows the board to make that decision based on the decision at the local level, that is the way it ought to be and we will be pleased to support the amendment that you have put forward.

Section 174 as amended agreed.

Section 377 coming into force

Mr. Stodalka: — To conclude, I'd just like to say I hope that during the last three or four years that we've been in the process of producing this document that we have passed here today that, in the future, it turns out to be a document that really improves and helps education in the province of Saskatchewan. I know I personally have enjoyed the session, many sessions I should say, in which we were involved in working through the legislation and the bills. I think that some commendation might be given to the government that so many people were involved during the course of the three and four years in producing this act. Again, as I said, I hope that it turns out to be as good as we might hope that it will in the future.

I was amazed though how Mr. Lane, the member for Saskatoon Sutherland, was able to keep the member for Rosetown Elrose out of this Assembly for the entire third reading. I don't think he has been here for any of the sections. I was beginning to wonder whether it was by design and they were afraid that he might overstep the traces again as he did the last time, but we have gone through the entire third reading and he hasn't been here for not one of the clauses. He hasn't been here for one of the clauses in the bill readings. You just check and see. He was missing yesterday. He was missing today. Don't be so touchy fellows, it is a fact. Okay now. And finally I would like to congratulate the minister and his staff for all the work that they have done in

presenting this bill to the legislature.

Mr. Lane (Sa Su): — Until now, there existed in Saskatchewan or until very shortly in the future at least, there existed and there will exist, in the brief time until this act is law, a number of lengthy, confusing statutes scattered all over the place. In terms of the consolidation of statute law in this regard in respect to education, we congratulate the minister. We are happy to see it all brought together into one, hopefully workable, statute. There are many sections that still give us some concern but I suppose at this point in time we will have to adopt a wait and see attitude in order to determine how — for example, one of them spoke of it just a few minutes ago and that is the powers granted to the minister. We will have to wait to see if, indeed, the minister will leave these sections lie dormant or in what fashion he will choose to exercise those particular powers.

Now, quite apart from that, throughout this debate, there has been much more interest, by both the parties to our right and the parties across, to know what the PCs were doing in this particular regard and I take that as a compliment. They are very interested in how we are going to carry on in this field once we become the government in a very short time. But I say, in response to the member for Maple Creek, I say their position came through loud and clear in this debate was this: — some were for and some were against and as official critic, he adopted an attitude of curiosity. He was very curious to see how the minister would respond — and that is some position to take. I am proud of the fact that we took a firm position all the way through and stuck to it.

Some Hon. Members: — Hear, hear!

Mr. MacDonald: — Mr. Chairman, far be it for me to let the member for Saskatoon Sutherland have the last word. I only want to make a couple of comments in general about the overall passage of Bill 22. I suppose that maybe this is one way that it is unfortunate that the galleries haven't been full the last couple of days and the last couple of months. The way perhaps the Legislative Assembly in Saskatchewan or all Houses of Parliament should act all across Canada. Because not only did the Government of Saskatchewan take many years in the preparation of this particular statute, they got a great deal of input from the general public in the province, from all those organizations and associations interested in the education field. Then I think, when it was introduced, members of the Assembly (and I would like to say that the Conservative superficial position at the beginning lasted throughout, but I won't be that unkind), but I will say that members of the opposition (and I know my own party) took this bill as a very, very serious piece of legislation. Immediately we sat down with the Saskatchewan Teachers' Federation, the Saskatchewan School Trustees' Association, with parents and with young people involved and came up with what we thought was an effective contribution in passing this particular bill. All I would like to suggest is, perhaps . . . (inaudible interjection) . . . the only person that really did not bring anything was the Attorney General . . . (laughter) . . . he is the only one that didn't even contribute to the bill. If he only had read a little bit about it, we might have even had a more improved bill. But you know, without getting into a harangue or the enjoyment that I might normally have in the House, I say in all sincerity, I too congratulate the minister and the government. I think this is

the way parliament should operate and I think if we did this a little more often, we might have some legislation in the House that would meet general acceptance across the province.

Some Hon. Members: — Hear, hear!

Mr. Faris: — Mr. Chairman, I would like to take this opportunity to say a few words. I think that the three year process that we went through with this bill, is really unprecedented. I don't think there has ever been as much public participation in the formation, certainly of any education legislation in Canada and perhaps of any other sort of legislation in Canada.

It has been a most interesting process and it is one that is not without its dangers. But I do want to say that, even in these final days here, I particularly appreciated the input from the member for Maple Creek and the member for Saskatoon Eastview. I do say that some . . (inaudible interjection) . . I am sorry that the member for Rosetown Elrose was not able to be in the House. I take it that he had a good reason not to be, because I feel he would have made a worthwhile contribution if he had been able to be here but . .

An Hon. Member: — What about the member for Regina South? He . .

Mr. Faris: — I don't intend to make any comments about the learned members of the Assembly, but I do want to pay at this time, particular tribute to one individual who happens to be in the House at this time and that is, the man beside me, Lionel Bergstrom.

Some Hon. Members: — Hear, hear!

Mr. Faris: — Lionel Bergstrom has spent 45 years serving the people of this province in education. He was the first superintendent of School Unit No. 1 in this province. He's a distinguished public servant and without his computer like understanding of the educational legislation, which is very diffuse and very difficult to see through, I'm not sure that we would have been able to do the work as expeditiously as we did. I think this legislation is in many ways a monument to his input and I think we shall all be grateful to him and I am certainly personally grateful to Lyle and to the other members of my department, my deputy, my associate deputy, my special advisors, people who participated in the communication process which took place. It was, I think, a very exciting exercise and one which we can all learn a great deal from.

Mr. Chairman: — Order. Order, please.

Section 377 agreed.

Mr. MacDonald: — Before the vote I'd just like to bring up a quick point of order. It's the first time in my life I've ever heard a standing vote on a motion to report the bill.

Mr. Chairman: — Order. Order, please.

Bill 22 agreed on the following recorded division.

YEAS 43

Thibault
Smishek
Romanow
Snyder
Byers
Kramer
Baker
Kowalchuk
MacMurchy
Mostoway
Banda
Kaeding
Dyck
McNeill
MacAuley

Feschuk
Faris
Cowley
Tchorzewski
Shillington
Vickar
Skoberg
Nelson (Yktn)
Allen
Koskie
Johnson
Thompson
Lusney
Wiebe

Merchant
MacDonald
Penner
Cameron
Anderson
Stodalka
Clifford
Larter
Lane (Qu'Ap)
Ham
Bernston
Lane (Sa Su)
Wipf
Katzman

NAYS 00

The Assembly recessed until 7:00 o'clock p.m.