

## EVENING SITTING

**Hon. Mr. McLeod:** — Mr. Speaker, just before resuming the debate, the stimulating debate on the Bill which is before the House, I wonder if I could ask for leave of the Assembly to move three motions which are normally moved somewhere near the beginning of a new legislature. I would ask for leave to do that now.

Leave granted.

## MOTIONS

### Membership of Committees

**Hon. Mr. McLeod:** — Mr. Speaker, by leave of the Assembly I would move, and seconded by my seat-mate the member from Kindersley:

That members Sauder, Duncan, Gardner, Gerich, Koskie, McLaren, McLeod, Romanow, and Smart be constituted as a continuing select committee with the power to call for persons, papers, and records, and to examine witnesses under oath, and whose duty it shall be to establish from time to time select committees with the power to call for persons, papers, and records, and to examine witnesses under oath, and with the power to travel and to hear testimony away from the seat of government; and that the continuing select committee will have the power to set the terms of reference for each select committee; and that each select committee shall report directly to the Legislative Assembly from time to time.

I so move, Mr. Speaker.

Motion agreed to.

**Hon. Mr. McLeod:** — Mr. Speaker, I would move, by leave of the Assembly, and seconded by my colleague the member from Kindersley:

That members Anguish, Andrew, Atkinson, Baker, Hagel, Hopfner, Koenker, McLaren, Neudorf, and Saxinger be constituted a special committee to consider every regulation filed with the Clerk of the Legislative Assembly pursuant to the provisions of *The Regulations Act* with a view to determining whether the special attention of the Assembly should be drawn to any of the said regulations on any of the following grounds:

- (1) that it imposes a charge on the public revenues or prescribes a payment to be made to any public authority not specifically provided for by statute;
- (2) that it is excluded from challenge in the courts;
- (3) that it makes unusual or unexpected use of powers conferred by statute;
- (4) that it purports to have a retrospective effect where the parent statute confers no express authority so to provide;
- (5) that it has been insufficiently promulgated;
- (6) that it is not clear in meaning.

And if they so determine to report to that effect, and that the committee have the assistance of legal counsel in reviewing the said regulations, and that it be required prior to reporting that the special attention of the Assembly be drawn to any regulation to inform the government department or authority concerned of its intentions so to report; and that the committee be empowered to invite any regulation-making authority to submit a memorandum explaining any regulation which may be under consideration by the committee or to invite any regulation-making authority to appear before the committee as a witness for the purpose of explaining any such regulation; and that the committee be empowered to review the by-laws of professional associations and amendments thereto to determine whether or not they are in any way prejudicial to the public interest.

I so move, seconded by the member from Kindersley, Mr. Speaker.

Motion agreed to.

**Hon. Mr. McLeod:** — Mr. Speaker, by leave of the Assembly, I move:

That the by-laws of the professional associations and amendments thereto tabled in the last legislature and not ratified by the committee and the by-laws and amendments as tabled in the current session be referred to the Special Committee on Regulations.

I so move, seconded by the member from Kindersley, Mr. Speaker.

Motion agreed to.

## ADJOURNED DEBATES

### SECOND READINGS

The Assembly resumed the adjourned debate on the proposed motion by the Hon. Mr. Berntson that Bill No. 5 — An Act respecting the Organization of the Executive Government of Saskatchewan be now read a second time.

**Ms. Simard:** — Mr. Speaker, what I would like to do tonight with respect to Bill 5 is to deal with the provisions in Bill 5 that are causing me some difficulty. I want to also look at the Manitoba Act, the B.C. Act, the federal Act, and the British Act. And I believe it's relevant to look at those piece of legislation, Mr. Speaker, because — and I quote from *Hansard*, December 15 — the hon. member from Souris-Cannington stated that Bill 5, speaking about Bill 5, and I quote:

... is not a radical departure in our British constitutional tradition. Similar legislation has been in place in Great Britain since 1946; in

Ottawa since 1970. This Bill is based on The Executive Government Organization Act in our neighbouring province of Manitoba.

And I beg to differ with the hon. member, Mr. Speaker. This Bill is a radical departure from the British law and from the federal law, and it's a departure from the Manitoba law in this area. And I will be pointing out to this Assembly tonight what those differences are.

I also want to deal with some of the implications of Bill 5, and I want to deal with The Regulations Act because there is a provision in Bill 5 with respect to The Regulations Act that I am unclear about. I am not sure what is intended by it. And I think this should be brought to the attention of the members opposite.

I would like then to begin my argument, Mr. Speaker, by quoting an Ontario county court judge in the case *Rex vs. Holmes*, which is found, Mr. Speaker, in 1943, 1, *dominion Law Reports*, 241 at page 247. The quote is as follows:

One must realize that the government . . .

Well I know the members opposite there are laughing and heckling about this, Mr. Speaker, but this is a serious matter. We're talking about a Bill that goes very far . . .

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — . . . beyond legislation and other provinces. Beyond legislation federally, and beyond British legislation. It is simply a power grab.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — If you like, we could nickname it the Ayatollah Khomeini Bill.

Mr. Speaker, the quote is as follows:

One must realize that the Government of Canada cannot go on (and this is referring to federal legislation) without the delegation of wide legislative authority to the executive. But one must also realize that delegation cannot develop to the extent that our democratic government blossoms into a bureaucracy or dictatorship.

These same principles, Mr. Speaker, apply to this House. The delegation of power cannot develop to the extent that the powers and function of the legislature is usurped in favour of rule by executive, or in other words in favour of statism.

There is no question that the legislature can delegate certain laws, law-making powers, as long as they're restricted to routine and ancillary matters.

And I want to quote from various regulation-making provisions in other legislation. I want to quote from The Power Corporation Superannuation Act, section 51:

The board may with the approval of the Lieutenant Governor in council make regulations not

inconsistent with this Act for the purpose of carrying out the provisions of this Act according to their true intent and such regulations shall have the same force and effect as if incorporated herein.

The Power Corporation Act, Mr. Speaker, section 61:

The Lieutenant Governor in Council may make regulations, not inconsistent with the spirit of this Act for the purpose of carrying out its provisions according to their true intent and supplying any deficiency therein.

What that means is that regulation power is originally given for the purpose of developing upon a law that's already been established in an Act of the legislature — an ancillary provision, if you like, to improve the law as the legislature has seen it passed, not to go out and create fundamental basic provisions of law. Nowhere, Mr. Speaker, is it considered democratic for the legislature to give the executive power to legislate basic and fundamental powers outside of the Legislative Assembly and away from the scrutinizing eyes of the public and the opposition, but that's what Bill 5 purports to do.

**An Hon. Member:** — No it doesn't.

**Ms. Simard:** — It does do that. I beg to disagree with the member for Souris-Cannington. Bill 5 takes that power on and gives it to the executive to establish the objects and purposes of a department and to make other substantive changes or additions to the law, such as, perhaps, the right of a minister to enter on your property and to seize something. And there is legislation on the books, Mr. Speaker, that gives the executive arm of government or a minister the right to authorize people to enter on land and maybe seize or make an entry and seizure or search.

How is that legislation going to be affected by Bill 5? Will that automatically be repealed when the department is dismantled? Will it allow them, by regulation, to create another ancillary section, giving them the power to go on and provide for more search and seizure? Is this all going to be done behind closed doors, Mr. Speaker?

What about the right to create an offence for non-compliance with new regulations? What about that? Does this Bill give them the power to create offences outside of the legislature, Mr. Speaker? Well, if it allows them to establish objects and purposes, is that not broad enough? Could that not be extended to include some more fundamental provisions such as creating offences? And isn't that a dangerous thing, to take that power out of the legislature and give it to the executive? This, Mr. Speaker, simply cannot be permitted.

I see the question as being a twofold question. First of all there is the question of the unprecedented grab for power — and maybe it isn't so unprecedented. I understand earlier today we had a list of a number of other incidences where there was a grab for power, perhaps not of this magnitude, but of a similar magnitude.

The other issue, Mr. Speaker, is: is this Bill constitutionally valid for the legislature? Can the legislature give the provincial cabinet power to make

changes to existing legislation in the manner contemplated in Bill 5?

The Bill appears, Mr. Speaker, to grant the cabinet power to obliterate the intent of the legislature, in so far as prescribed powers, duties, and functions of ministers and departments go.

When you read clause 12(b) . . . I would just refer the members opposite, particularly in the back-bench, to clause 12 1(b). It says:

Notwithstanding any Act or other law, but subject to the other provisions of this Act, the Lieutenant governor in council (cabinet) may, by Order, on the recommendation of the President of the Executive Council, determine the organization of executive government and of its various departments, and for that purpose may: . . .

b) disestablish any department.

Now when you read that it becomes abundantly apparent that cabinet can disestablish the department. If this was done, the legislation setting up the department concerned would effectively be obliterated. If you disestablish a department, you're in effect repealing the legislation.

While the departmental Act would still be on the statute books, there would be no vehicle in the form of a department to carry out the powers, duties, and functions mandated in the departmental Act.

(1915)

So what happens to the people that are in the department if we don't have a department to carry out what's on the books, the legislated Act? What happens to the rights that are given to people in those Acts? Are they removed from the statute books, as well? We don't seem to have any answers to this, Mr. Speaker, and this is causing us a great deal of concern.

Nowhere does Bill 5 say that in transferring powers around, the cabinet must ensure that the mandate of each department must be preserved in the cabinet's new scheme of departments. There's no requirement, no obligation, on behalf of the executive arm of government to ensure that the powers and the rights and anything in those departmental Acts is carried over into a new department — no obligation at all. So you can disestablish your department and have this Act sitting in limbo with no obligation to carry through on it outside the legislature — all by regulation, all behind closed doors — without coming back to the legislature for approval.

In other words, Mr. Speaker, the cabinet is given the power to disestablish a department by section 12(1)(b) with no corresponding obligation to transfer the powers, duties, and functions of the disestablished department to another minister or department. If you absent an express obligation on the part of the cabinet to transfer the mandate of the disestablished department somewhere else, the will of the legislature as expressed in the departmental legislation may be completely frustrated. It is true that under sections 5 and 22, cabinet may transfer

mandates around, but there is no clear obligation on its part to do so, while at the same time it has the right to disestablish a department. And that's inconsistent; that's incongruous; and that is something that cannot be permitted.

**An Hon. Member:** — I'll explain it to you, Louise.

**Ms. Simard:** — Well please do. The power of cabinet, as stated in Bill 5, becomes even broader when one considers 12(1)(a) of the Bill. Let's just read 12(1)(a). It says that cabinet may:

establish, continue or vary any department and determine the objects and purposes of the department;

The objects and purposes. Nowhere does Bill 5 say that in determining the objects and purposes of the department that cabinet is limited in assigning objects and purposes to picking them from the objects and purposes which exist within the range presently set out in existing departmental legislation. In other words, just as there is no clear obligation to keep the existing legislated range of objects and purposes intact, there is no clear prohibition placed on the cabinet with respect to the addition to the range of objects and purposes.

In other words, they can disestablish a department. They don't have to move the powers and functions of that department to a new department. They can instead create new objects and purposes for the new department outside of the legislature. And that, Mr. Speaker, goes beyond the mandate in the Manitoba Act; it goes beyond the mandate in the federal Act, in the B.C. Act, and in the British Act.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — Clause 12(1)(a) by its terms allows cabinet to establish any department and to determine its objects and purposes. Thus cabinet, Mr. Speaker, could conceivably disestablish all existing departments and create new ones with objects and powers as they define.

The result is that given the sweeping language of Bill 5, all departmental legislation presently on the statute books could be effectively obliterated and replaced by a new regime of objects and purposes as determined by cabinet, without the necessity of legislative approval. And once that new regime is in place, sections 17, 18 and 19, Mr. Speaker, allow the minister or cabinet or both to delegate the exercise of powers related to his purpose as he defines by regulation.

Let's just take a look at section 17 now. Section 17 (1) says:

A minister may . . . enter into agreements on behalf of the Government of Saskatchewan with (and I'm going to go down to clause (b)):

any person, agency, organization, association, institution or body within or outside Saskatchewan;

For any purpose related to the exercise of any of the powers or the carrying out of the duties or functions assigned or transferred to the minister . . .

Now I ask myself, what's the purpose of that section, Mr. Speaker? Is that the privatization section? Is that meaning they're going to go outside of the civil service in order to have their duties and functions carried out and exercised? Is that their political patronage section, Mr. Speaker?

Or is it delegation? Is this their delegation section? I notice that Manitoba in section 10 and B.C. in section 15 have a delegation section. But if the hon. members on the opposite side of the House would look at those two sections, they will see that delegation is to an employee in the civil service under the auspices of the minister, not to any person, agency, organization, or association. One doesn't delegate their powers beyond to that extent.

I'm unclear as to what's meant by section 17, Mr. Speaker, and I certainly invite the members opposite to clarify some of these things for us, if indeed they do have an explanation.

Let's take a look at section 18, Mr. Speaker, and let's review what the hon. member from Souris-Cannington said on his second reading statement on this Bill.

**Mr. Speaker:** — Order! Order! Order, please! Order, please!

**Ms. Simard:** — I'm just going to quote.

**An Hon. Member:** — It was the other Bill, Louise.

**Ms. Simard:** — It's Bill No. 5.

**An Hon. Member:** — This one's 7.

**Ms. Simard:** — We're dealing with Bill No. 5. I will quote the hon. member from Souris-Cannington, who thought we were on Bill No. 7, but actually we're on Bill No. 5, Mr. Speaker.

I may quote from him on Monday:

It does not give new powers to the cabinet. It does not permit the expenditure of new money, nor does this Act even allow the re-allocation of moneys for new purposes without the consent of this Assembly.

Now I wish to take a look at section 18, which says:

The minister may, for any purpose relating to any manner under his administration . . .

And that's the new administration, the new department created by regulation, behind closed doors, without coming to the Assembly. The minister:

may make grants on any terms or conditions that he may prescribe to any person, agency, organization, association, institution or body within or outside Saskatchewan.

But there's no new spending powers, Mr. Speaker, we are told by the members opposite. But yet we're told about new departments being created outside of the Assembly and giving them the power to make grant son any terms and conditions they may prescribe.

It goes on to say a minister shall obtain the approval of cabinet before making any grant that's in excess of 10,000. So theoretically, they could make 100,000 grants for \$9,000, get no approval from cabinet — all under new departments that were created outside of this legislature. And yet we're told there are no new spending powers.

**Mr. Speaker:** — Order. Order, please!

I'd like to bring to attention the ruling, paragraph 734 in *Beauchesne's* regarding second readings. The member is quoting quite extensively from the clauses of the Bill, and therefore, I'd like to read paragraph 734:

The second reading is the most important stage through which the bill is required to pass; for its whole principle is then at issue and is affirmed or denied by a vote of the House. It is not regular on this occasion, however, to discuss in detail the clauses of the bill.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — May I speak to that, Mr. Speaker. It is impossible to make the point that has to be made on the second readings debate that this Bill goes beyond its powers without referring to sections.

**Mr. Speaker:** — I understand what the member is attempting to do. However, it would seem to me that according to rule 734 it would be more appropriate if she attempted to do that, and perhaps in even greater detail, in clause by clause passage of the Bill.

**Ms. Simard:** — Mr. Speaker, I'll not quote from the sections, but I will try to work around that and just deal with the principle. Okay, Mr. Speaker, if I may continue at this point.

What is happening here with respect to Bill 5, Mr. Speaker, is cabinet can in effect define the minister's purposes, and the minister can then delegate powers related to his purpose and grant money to others to assist him in effecting his new purpose. And those provisions of the Bill that deal with that, when you look at the fact that it relates to the mandate of the minister as prescribed by the legislature . . . For example, if the Act put these provisions in and this was agreed upon by the legislature with respect to a particular department, is not as objectionable. But when you allow the objects and purposes and the entire department to be set up by regulation and then in effect give the power to make grants and new expenditures without it coming back to the legislature, it goes much further than we've ever seen in the past, or that I have seen in any other province in Canada.

Therefore, the legislation, in effect, does the following: it obliterates existing departments; it neglects to transfer mandates of obliterated departments elsewhere. It creates

new departments with objects and purposes as defined by cabinet. It doesn't create the department; it allows the cabinet to create it, and it approves ministerial delegation of powers and ministerial spending to these new departments, which are not approved by the legislature.

The other thing that causes me some concern is there's some indication in the Bill that this does not ever have to be brought before the House, that it doesn't have to be tabled before the House, that it doesn't have to be disclosed. I'm not even sure that this has to be disclosed or gazetted, the regulation has to be gazetted. There's a section in The Regulations Act that allows you to dispense with gazetting, and this has a section in it that says The Regulations Act applies.

I'm not sure why that provision is in there. It's causing us concern. Are they attempting to assure that they will be able to avoid and dispense with the gazetting of the regulation? We don't know, Mr. Speaker, but it's causing us a great deal of concern.

In effect if this analysis of Bill 5 is then correct, the legislature by enacting Bill 5 gives the cabinet power to effectively repeal and replace existing legislation. The enactment of Bill 5 would thereby amount to the legislature delegating broad legislative powers to the cabinet.

The question is whether it is constitutionally valid for the legislature to give some of its powers away to another body. The law is clear that the legislature can validly delegate powers, including powers that can be described as law making or legislative powers, to subordinate bodies in all sorts of ways. The power to make rules is given to others, such as the Highway Traffic Board, the Labour Relations Board, etc. Such delegation, however — and here's where the difference lies — such delegation, however, normally involves the granting of power to make rules within and subordinate to a primary piece of legislation. The body to whom rule-making power is granted can only work within the confines of the primary statute, the statute that creates it and gives it the powers. Bill 5, however, purports to delegate the power to make rules which would effectively amend, repeal, and replace existing legislation. It gives the cabinet a *carte blanche* to legislate in very broad terms. To do so, therefore, is not an exercise in delegation to a subordinate body but rather the elevation of the delegate to the status of a Legislative Assembly.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — It's the elevation of the delegate, i.e. cabinet, to the status of a Legislative Assembly, and that's why, Mr. Speaker, I say this is a power grab, and I say this is usurping the powers of the Legislative Assembly.

**Some Hon. Members:** Hear, hear!

(1930)

**Ms. Simard:** — Mr. Speaker, the Manitoba legislation . . . If I might just compare this to that, because there was a statement on second reading speech that it followed the Manitoba legislation — the Manitoba legislation talks

about disestablishing a ministry or a department, if you like, and transferring duties and functions. It doesn't talk about objects and purposes, and objects and purposes are much broader than duties and functions. And the member from Kindersley would understand that.

I want to also refer to the B.C. legislation, Mr. Speaker, which says the same thing in effect. It refers to the transfer of duties and functions from one ministry to another, not to objects and purposes, Mr. Speaker. And those are different things. Anybody who has experience in law will know that those are two different things. And objects and purposes are broader than duties and functions.

What happens in Manitoba and B.C., Mr. Speaker, is that — as I understand it — is that the basic departmental legislation remains intact. The substantive provision remains intact. The powers and the objects of the department, if you like, remain intact, and the sort of administrative things are dealt with by regulations — the changing of the name, the changing of functions, who's responsible for this department, and so on. It's not a question of totally destroying a department and then creating, by regulation, new objects and purposes. The objects and purposes, or the powers, are left in legislation in these two provinces. That's my understanding. If that's not accurate, I would like to hear from the members opposite.

With respect to the British law that was referred to by the member from Souris-Cannington . . . And I believe he said that similar legislation has been in place in Great Britain since 1946. Not so, Mr. Speaker, no so. And I am quoting from *Butterworth's 20th Century Statutes*, 1946, number 43, talking about the Act to which I assume he was referring.

This Act has two main objects: firstly to introduce greater elasticity into the machinery of government by providing for the transfer of functions and changes of titles of Ministers of the Crown to be effected by Orders in Council . . .

And then something about dealing with temporary wartime departments, which isn't relevant to us. But if I may go on:

S. 1(1) provides for the transfers of functions from one Minister of the Crown to another to be made by Order in Council instead of by full-dress amending legislation as would otherwise have been necessary.

Under sub-s. (2) an Order in Council may be made dissolving a Government Department and redistributing the functions of the Minister in charge of that Department. This process, again, would otherwise have required legislation by Parliament. As the disappearance of a Department of State is considered of more moment than a transfer of Ministerial functions, it is provided that orders under this subsection require affirmative resolutions of both Houses of Parliament.

In other words, it goes back to parliament. And then they deal about . . . He goes on to say:

Though the above powers of executive action by Order in Council are in substitution for legislation by Parliament, they are limited in scope and cannot be used, as was explained by the Lord President of the Council in moving the Second Reading, for instance, to create a new Ministry, to re-create a dissolved Ministry (or department), to increase . . .

He said they:

. . . cannot be used . . . to create a new Ministry, to increase . . . the number of Ministers, to make permanent or add to the duration of temporary functions of a Minister, to grant a Minister any new statutory function . . .

Cannot be used to grant a minister any new statutory functions. Let me repeat, just so everyone over there hears:

. . . cannot be used to grant a Minister any new statutory functions or to abolish or modify any statutory duty or restriction which Parliament has placed upon him. These acts must still be subject to . . . the full rigour of the legislative procedure. The powers exercisable by Order in Council merely provide a simple procedure for redistributing the functions of Ministers, and have been considered necessary in order to avoid delays in any such redistribution which might be caused by the pressure of a heavy legislative programme.

And of course we don't have any problem with that sort of administrative aspect. It's the fact that Bill 5 goes far beyond that. It does the things that it's stated in here will not be allowed in Britain.

There was also a reference, Mr. Speaker, to Ottawa. They referred to this law being in Ottawa since 1970.

Well, I have here from the *Revised Statutes of Canada, 1970, 2nd Supplement*, the various provisions of that Act, which make it abundantly clear to me, Mr. Speaker, that that's not what happens in Ottawa.

In Ottawa it goes back; it goes back to parliament. It isn't done behind closed doors. It isn't a *fait accompli* behind the closed doors of the executive to become law all over the province. It goes back to parliament.

And if I can just deal with those relevant sections: section 14 of this Act that I have referred to says — and I'll summarize the section, Mr. Speaker, to the best of my ability:

. . . for the time being of a special portion of the public service of Canada presided over by a Minister charged with the responsibility for the formulation and development of such policies, the governor in Council may, by proclamation, establish a Ministry . . . for that purpose.

So he can do it by proclamation.

To go on to section 16:

The Governor in Council may, by proclamation, from time to time, change the name of a Ministry of State or vary any matters set out in the proclamation establishing the Ministry.

Section 17 deals with the termination.

The Governor in Council may, by proclamation, terminate the existence of a Ministry of State.

But section 18(1), Mr. Speaker, says:

An Order in Council authorizing the issuance of a proclamation under section 14 or 16 (as I quoted) shall not be made (shall not be made) until the proposed text of the Order in Council has been laid before the House of Commons by a member of the Queen's Privy council for Canada and the making of the Order in Council has been approved by a resolution of the House of Commons.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — So I beg to differ with the member from Souris-Cannington, who said similar legislation has been in place in Great Britain since 1946, in Ottawa since 1970. It hasn't been, Mr. Speaker. There's no provision in Bill 5 to bring those regulations before this House. No provision.

Not only does it require that it be brought before the House, but subsection 2 of section 18 goes on to say that it "shall be debated in the House for not more than seven hours . . ." But there's at least seven hours of debate on it, . . . "after which time the question shall be decided in accordance with the rules of the House." That's a different question altogether, Mr. Speaker; that's a different issue. That is totally understandable. Anybody can understand that that's the way you may improve the efficiency of government and still maintain democratic traditions and still handle things in a fair and just manner. That's the way to do it, without usurping the functions of the legislature and making a power grab to do everything behind closed doors.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — And I had mentioned earlier, Mr. Speaker, that I had concerns with the provision that says The Regulations Act applies because I'm not sure why they would put a section in there saying The Regulations Act applies. I would imagine it applies by implication. But why has it been specifically stated?

There are provisions in The Regulations Act, Mr. Speaker, to do away with gazetting, to do away with giving the public notice of the regulation. And is it the intention of the government by including that section in their Act to prevent or avoid the necessity of publishing the regulation? I ask them that question. I would like to hear their answer.

Nobody has any quarrel or argument, Mr. Speaker, with making the administration of government more efficient, not if it is done democratically, if it's done fairly, and if it's done before this House, which is where many of these things should take place. We have no quarrel with efficiency and trying to streamline things. We'd like to see that happen.

But there's no question that Bill 5 is an abuse of legislative power. And since it allows an abuse, it is in my respectful opinion *ultra vires* this legislature. In other words, it's beyond the powers of this legislature — beyond the powers of this legislature to give a body outside the legislature law-making powers of this calibre.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — Is this another tactic, Mr. Speaker, to reduce their accountability to the public? I ask you: is this another tactic to reduce your accountability?

It permits the government to do behind closed doors what it should be doing in the Assembly and what it should be doing in public view. I'm not even sure whether it has to publish the regulations, or whether they can dispense with giving the public notice that they've created these powers and purposes and objects.

And as I've said, Mr. Speaker, we all like efficiency. No question — we all like efficiency, but sometimes we pay a very high price for efficiency. And I would like to know, Mr. Speaker, what the price is here. Is the price many, many, many jobs of civil servants as was elaborated in some detail by a member of this House earlier this afternoon? Is the price encroachment on our democratic traditions and our democratic principles? Is that the price? Is the price too high in Bill 5? I say the price is too high. I say that if the government wants to do these things by regulations, they should have to bring that regulation back to this House for its approval before it is considered law.

**Some Hon. Members:** Hear, hear!

**Ms. Simard:** — I don't know what the intentions are of the members opposite, Mr. Speaker. But when one scrutinizes the legislation, one must consider all the possibilities, all the possible ramifications, where can this lead us to, what is the end result of this legislation if it's taken to the ultimate. To do otherwise would be to fail on our part as opposition. And we can't do that. These things have to be brought to your attention. You have to be made to understand the problems that we're having with this legislation — and you should understand the problems.

One may argue, Mr. Speaker, that oh, they can have a go — they can have a go at it in the regulations committee or they can have a go at it in estimates. But both those tools, Mr. Speaker, are not effective enough because there's a delaying process; things are already *fait accompli*. Things have already happened by the time they get there. It's after the fact. It reduces the function; it reduces the power of the Legislative Assembly if all we can rely upon is scrutinizing these things in the regulations committee, scrutinizing these things in estimates. It's not adequate. It's not adequate review. It's not democratic. It's not fair to the people of Saskatchewan and it's not fair to this

Legislative Assembly.

If it means, Mr. Speaker, that we have to constantly monitor every single regulation passed by cabinet, summer and winter, whether this House is sitting — and I say that's what Bill 5 will require us to do — if it requires us to do that, and it does, then it is an excess of the authority of the legislature.

And in summary, Mr. Speaker, I just wanted to reiterate the argument as to why we have grave concerns with this legislation. And they are basically that the section that allows for establishing a new department allows them to go beyond stipulating duties and functions and allows them to stipulate objects and purposes, new objects and purposes. Very broad power, Mr. Speaker.

(1945)

They can disestablish a department and leave the departmental Act there, with all the powers and all the substantive provisions in the legislation; no obligation to carry those over to the new department. Repealing an Act *holus-bolus*, with no obligation to put them in the new department, no obligation to come to the legislature — totally unprecedented. It doesn't require the regulation to come back to the House. It doesn't require it. It may not even require the regulation to be published.

What's happening here, Mr. Speaker? What's happening here? What is happening here is either a very innocent or ignorant slip or a power grab. I don't know what it is, Mr. Speaker, but I'm totally perplexed by this legislation that's brought forward. I'm perplexed by the fact it's stated that similar legislation has been in place in Great Britain since 1946, because it's not similar; in Ottawa since 1970. It's not similar to Ottawa; it goes beyond Ottawa. I'm perplexed because it says it's based on the Manitoba Act.

The Manitoba Act wording is very different, much different. And the only thing I can conclude, and I hope that I'm wrong, but the only thing I can conclude is they want to remove all this legislative power out of this House behind closed doors. They want to keep it to themselves; they don't want the public to know; they don't want public scrutiny of the legislation; they want to do it entirely on their own. And I say that's very nearly approaching a dictatorship, Mr. Speaker.

**Some Hon. Members:** Hear, hear!

**Mr. Mitchell:** — Mr. Speaker, I hope the members opposite took careful note of what my colleague, the hon. member from Regina Lakeview, had to say. I want to pick up on the points that she made and I want to make the point: it's a very serious legal point that what you're trying to do with Bill 5 is *ultra vires*, as the member from Regina Lakeview said, and indeed unconstitutional.

Someone asked what *ultra vires* means, and I say that it means simply that it is beyond the power of this legislature to do what you're trying to do. Now in order to convince you that that may be the case and to convince you that this Bill needs a serious second look, let me refer the Assembly to two decided cases, one decided in the Privy Council at a time when appeals in Canada landed at

the Privy Council as a court of last resort — a case decided in the year 1919; and secondly, a case decided in our own Supreme Court of Canada in 1980.

And the object of this analysis that I'm going to lay before the Assembly, Mr. Speaker, is to the effect that what you're trying to do is beyond the power of this Assembly, and when I conclude my remarks, I'm going to seriously ask the government to take this idea back to its law officers — I see the Minister of Justice is paying attention to what I'm saying — to take this Bill back to the law officers and ask that the Bill be looked at again from that perspective.

Now the first case that I would like to refer the House to was the Privy Council decision decided in 1919, and it's referred to as: "Re the Initiative and Referendum Act." Now this was a piece of legislation passed by the government of Manitoba in 1916. And what it sought to do, Mr. Speaker, was provide a procedure in Manitoba whereby the laws of that province could be made and could be repealed by direct vote of the electors instead of by the members of the legislature.

Now the Government of Manitoba at that time, when they brought their legislation before the House, was met by an argument precisely similar to the argument being made today in respect to Bill 5. The legal ability of a government to pass this kind of provision was brought into question in the Assembly, and what the Government of Manitoba in 1913 did . . . in 1916 did was to refer the question to the courts and ask the courts for an opinion as to whether or not the procedure which was being set up by their legislation was within the powers of that legislature to enact. And that question went to the Manitoba Court of Appeal and worked its way through eventually to the Privy Council. And a decision was made by the Privy Council in 1919.

Now, as I say, that legislation sought to provide that the laws of Manitoba could be made or could be repealed by a direct vote of the electors, which mean simply a public referendum.

The Privy Council, and I quote the judgement of Viscount Haldane, who was one of the most eminent jurists in the life of the Privy Council. He said this, he said — and he's referring here, Mr. Speaker, to the British North America Act — he said, and I quote:

The language of section 92 is important. That section commences by enacting that "in such province the legislature may exclusively make laws in relation to matters" coming within certain classes of subjects. The only one of these classes which is relevant for the present purpose is the first enumerated, "the amendment from time to time, notwithstanding anything in this Act, of the constitution of the province, excepting as regards the office of Lieutenant Governor.

Now section 92 of the British North America Act is no longer in force, Mr. Speaker. It's been replaced by the Constitution Act. And the Constitution Act contains the same kinds of provisions as did the British North America Act.

So, the Constitution Act, reads as follows, Mr. Speaker, and I quote:

Subject to section 41, the legislature of each province may exclusively make laws amending the constitution of the province.

And it's my argument, Mr. Speaker, and I think it perfectly plain that the provisions of the Constitution Act are the same as the provisions of the British North America Act, as regards to this question.

Now, Viscount Haldane, in this Manitoba case, went on to hold that as the Manitoba legislation would affect the office of the Lieutenant Governor, it was *ultra vires*. And he went on to state as follows, and I quote here from page 945:

Section 92 of the Act of 1867 entrusts the legislative power in a province to its legislature, and to that legislature only. No doubt a body, with a power of legislation on the subjects entrusted to it so ample as that enjoyed by a provincial legislature in Canada, could, while preserving its own capacity intact, seek the assistance of subordinate agencies . . . ; but it does not follow that it can create and endow with its own capacity a new legislative power not created by the Act to which it owes its own existence.

And I end the quote at that point.

The point is simply this, Mr. Speaker: that if any of the provisions of Bill 5 can be seen, as it has been asserted in this House to be, as provisions that give to the cabinet the same powers as possessed by the legislature, then Bill 5 is, on the basis of the rationale of the Privy Council decision that I've just referred to, beyond the power of a legislature. It is *ultra vires* of this legislature.

Now this question, as I said earlier, was reviewed by our Supreme Court of Canada in 1980, and the case that I'm talking about was the reference by the Government of Canada to the Supreme Court of Canada of the proposal to abolish the senate, or at least to re-cast the senate in a different form. And the constitutionality of that proposal was questioned by the provinces and by the opposition in parliament, and was referred by the government to the Supreme Court of Canada.

During the decision, or while deciding that case, the Supreme Court of Canada had occasion to look at this 1919 Manitoba case that I've been telling the Assembly about, and it approved and adopted formally in Canada the words or the decision of the Privy Council in 1919.

Now let me turn for a few minutes to the decision in the senate case, the Upper House case decided by the Supreme Court in 1980. As I said, Mr. Speaker, what was at stake in that case was the constitutional validity of a federal Act to abolish the senate. At page 68 of that judgement, and I'll provide the Minister of Justice with the citation for it, but at page 68 of that judgement the Court refers to the fact that federal legislative power was given to the Queen by and with the advice and consent of the



senate and the House of Commons. That's how the federal legislative power is cast in the British North America Act. And at page 72 the Court stated, and I quote:

The elimination of the Senate would go much further in that it would involve a transfer by Parliament of all its legislative powers to a new legislative body of which the Senate would not be a member.

Now then, as I said, Mr. Speaker, the Supreme Court of Canada that referred to this Privy Council decision of 1919, and stated — and again I quote, Mr. Speaker:

The court held that Section 92 of the Act vests the power to make or repeal laws exclusively in the Legislature and that it did not contemplate the creation of a new legislative body to which the Legislature could delegate its powers of legislation or with which it would share them.

Now, while the case was — I go back now to the Manitoba case — while it was before the Court of Appeal, which was an earlier stage than the Privy Council, the Chief Justice of that court had the following to say, which I think is relevant. He said:

The legislature can in no way change any of the provisions of Section 92 . . . no matter what changes are made in the constitution, the provincial legislature and no other body can legislate on the subjects set forth in the remainder of the sub-sections.

Now thus, Mr. Speaker, both the Privy Council and the Supreme Court of Canada have determined that the legislature cannot validly change the party which makes the law. The party which makes the law in the province of Saskatchewan is this legislature, and this legislature cannot delegate that power to any other body, including the cabinet of this government.

Now this subject is addressed in one constitutional text — and I don't want to continue too long tonight, but I think I must draw the attention of the House to this treatment of the subject — the text is written by a professor named Hogg, H-O-G-G, and his text written in 1985 is entitled *Constitutional Law of Canada*, and I'm referring to the second edition. And I would refer the minister to pages at 283 to 308 of that text. He is dealing in these pages with the subject of delegation that interferes with the requirement of a legislature. He refers to this Manitoba case that I've been referring you to, Mr. Speaker, and he states the following and I'll quote two paragraphs from page 292:

But a more substantial objection could be made to legislation by initiative and referendum, and that is, that the process bypasses the province's legislative assembly . . . the Manitoba Court of Appeal, decided that the regime . . . was bad, not merely because it bypassed the Lieutenant-Governor, but also because it . . . was not a "legislature". In other words, the constitution

contemplated that primary law-making authority could be exercised only by a legislature, and the term "legislature" involved the participation of some form of representative assembly. The Privy Council . . . suggested that they agreed with it.

If the initiative and referendum procedure were construed as delegated rather than primary law-making power, then it would be immaterial that it were vested in a body other than a "legislature" . . . The Privy Council in the *Initiative and Referendum Reference* asserted that, while *Hodge* permitted a provincial legislature to "seek the assistance of subordinate agencies", it did not follow that "(the legislature) can create and endow with its own capacity a new legislative power not created by the (constitution) act to which it owes its own existence.

Now I apologize for the denseness of that passage, Mr. Speaker, and I'd take some study to understand all of the implications of what the author is saying, but boiled down to its essence, it is simply that there are some things that this legislature cannot do. There are constitutional limits to the things that we can do.

(2000)

Now all members of this House will know that this legislature has now power, for example, to legislate in respect of money and banking. That's a subject that's reserved to the federal government.

The idea that I'm trying to put across to the members of this Assembly tonight is that there is a similar limitation on our power to pass legislation if what we're doing is to try to delegate that legislative power to another body, and we simply can't do that.

Now the argument has been made from this side of the House a number of times today, and it was made by the House Leader on this side on Monday evening, that what this Bill does — whether that's what the government intended or not — what this Bill does is to confer upon the cabinet the power to legislate in respect of determining the objects and purposes of departments, disestablishing departments, varying departments, and the arguments will be familiar to you by this time, Mr. Speaker. And there is certainly at the very minimum a powerful argument that those words do do — that those words can be interpreted to mean that the cabinet has this new power being conferred upon it.

And if that is the case, Mr. Speaker, and as I say, a very, very strong argument can be made that that is the case, then what the Assembly's being asked to do by Bill 5 is beyond the powers of this legislature and is *ultra vires* and would be struck down by a court.

Now quite apart from the precedents from the previous decisions of the courts, that I've referred to tonight, are the provisions of the charter — that is the Canadian Charter of Rights and Freedoms. And I would refer the minister to sections 3, 4 and 5 of the charter, and I think it clear from a reading of those sections that we Canadians are to be governed by elected representatives in the House of

Commons and in the legislatures of this country. And it seems implicit in the words used in that charter that Canadians have the right to expect that they will be governed in the main by primary law-making bodies. In other words, by this legislature, and not by another body, such as the Lieutenant Governor in Council referred to in section 12, subsection (1) of the Bill that's before us tonight.

Now I know that the government would not wish to do something that is beyond the powers of this Assembly. The government would not ask us, would not knowingly ask us to do something which was *ultra vires* of this Assembly. And as I said earlier, Mr. Speaker, and I repeat with all of the sincerity and conviction that I am capable of mustering, that at least there is a very serious question that the Bill is unconstitutional, that the Bill is not valid, and that the Bill is beyond the powers of this Assembly.

And therefore what I'm suggesting, Mr. Speaker, is that the government hold this Bill — just hold it — don't proceed further on it while they have the law officers or some outside legal authority review the provisions of the Bill, get an opinion on the constitutional validity of its provisions, and particularly of section 12. And then after that opinion has been expressed, we'll be better able to judge the point that I and my colleague from Regina Lakeview have been trying to make.

Certainly it's not something that we should just ignore, sweep under the rug, and walk away from. But we also suggest, Mr. Speaker, that there is nothing in this Bill that is so urgent that it can't wait that kind of consideration. Better to give it that kind of consideration now, Mr. Speaker, to have the law officers of the Crown or some outside legal expert look at the Bill with a view to assessing its constitutionality, better to look at that before the Bill is passed. Otherwise, if the Bill is passed, we'll just find our self in the rather embarrassing situation of having somebody outside, some person from outside this Assembly, attacking the enactment of this legislature in the courts of this province to determine that same question: is the Bill constitutional or not?

Now I hope that the members have taken by submission tonight seriously. It's a difficult one to make, Mr. Speaker, in any forum, including in the court, because it's a dense, difficult subject. And it's a subject on which I don't hold myself out to be one of the province's experts, but I felt familiar enough with the concepts to be able to try and put the point tonight.

I sincerely hope, and all my colleagues do on this side of the House, that the government will take this submission seriously and will ask itself the very serious question about whether what it's trying to do is lawful and within the powers of this Assembly. And I do hope that they'll take that submission seriously and send this Bill away for examination by either law officers of the department or some outside legal expert.

**Some Hon. Members:** Hear, hear!

**Mr. Rolfes:** — Let me say to the members of this Assembly that it doesn't give me very much pleasure this evening to have to get up and speak on this particular Bill.

**An Hon. Member:** — You didn't have to, Herman.

**Mr. Rolfes:** — Yes. The member opposite said I didn't have to, but, Mr. Speaker, yes, I must speak because this Bill — like the nominating committee's motion the other day — in my opinion, Mr. Speaker, strike at the very principles of democracy. And I want to, this evening, spend a few minutes in expressing my opposition to what the government is attempting to do.

Members on this side of the House, Mr. Speaker — certainly the four members who have spoken just previous to me; the member from Quill Lakes and the member from Regina Lakeview, and now the member from Saskatoon Fairview and the other day the member from Saskatoon Riversdale — all, Mr. Speaker, lawyers in their profession, and all have come to the same conclusion that this Bill is illegal. It is *ultra vires* and it should not be proceeded with.

If that is the case, Mr. Speaker — and I believe that our members have proven that to be the case — we have to ask ourselves the question again: why is the government so determined to bring this Bill before this Assembly at this particular time and try and squeeze it through and sneak it through the House while they know that the public out there are busy with other things? No one wants to prolong this House, but I want to tell my hon. friend, the Deputy Premier — and he knows me well — and I want to tell my friend from Meadow Lake that if I have my way, you and I will be sitting here on Christmas Day. We will be sitting here on Christmas Day because I will do everything that I can to prevent you from abrogating our responsibility here in this House.

And, Mr. Speaker, I am very surprised that the Minister of Education, who throughout this evening takes this thing with so light-heartedness when he is to protect, he is to protect the rights of our children. And as the Minister of Education, I asked him to look at this Bill and understand what it purports to do. And I will, Mr. Speaker, speak on what he Bill is purporting to do.

When, Mr. Speaker, the Deputy Premier introduced this Bill in the House the other day, he made it very clear — or so he thought he made it very clear to us — that similar legislation, legislation of equal purpose has been in existence in Manitoba, in B.C., in Ottawa, and even in the British parliament.

Mr. Speaker, either he didn't speak from the facts and he was ignorant of those facts — and I will give him the benefit that he was ignorant of those facts — or else I can only draw one other conclusion, that he came into this House hoping to quickly pass this legislation, mislead us, and proceed with the Bill.

But, Mr. Speaker, I don't think that he would do that. So, therefore, I must say that he was ignorant of the facts. I don't know which is worse for the Deputy Premier, to be ignorant of the facts or to try and mislead this House. But there's only one conclusion you can draw.

Mr. Speaker, the member from Quill Lakes this afternoon very eloquently, I think, outlined for us the things that

were happening and the things that did happen, Mr. Speaker, the things that did happen over the last four and a half years through this government. That this government, when the opposition was very weak, got into the habit, got into the habit where they thought that they could simply push through anything; when they felt that because the numbers were limited here, because the numbers were limited here, all they had to do was simply prolong it and they'd wear them down.

But, Mr. Speaker, the electorate thought differently this time around. They have given us a much stronger mandate. And I want to remind the Premier and the Deputy Premier, 55 per cent of the people voted against you in the last election — 55 per cent.

**Some Hon. Members:** Hear, hear!

**Mr. Rolfes:** — Your mandate was significantly reduced. Oh yes, you are still the government, but I think that people were trying to give you a message. It is time that you start listening. You start listening to the people through the opposition.

And, Mr. Speaker, I want to speak to a few of the back-benchers. I want to speak to a few of the back-benchers. I was a back-bencher also from 1971 to 1975. Now I was there too at one time. And I felt from time to time that I was only a pawn in someone else's hand. But I'll tell you, the back-benchers, if this Bill proceeds, you won't even be a pawn. You'll have absolutely nothing to say.

I can understand of course why the . . . I can understand why the member from Saskatoon Eastview would not speak against this Bill, would not want to irritate the Premier, and certainly wouldn't want to irritate the Deputy Premier because I think he has some aspirations to get on the treasury benches. And there is a good possibility that if he behaves himself, that the Premier may see fit to put him on the treasury benches. And I can also see why the member from Regina Wascana would not say anything to irritate the Premier.

But I'm talking to some of the other members. I'd like to talk to the member from — where is he from? — well the member from Rosthern. Yes, the member from Rosthern. The member from Rosthern, I think from the area that he comes from, would want to — and from the background of his people — would want to protect the principles of democracy and would want to protect the rights of the members of the legislature now.

(2015)

The member from Kinistino the other day gave us a little bit about his history, and I'm a little bit aware about his history also. And I would think that he would look twice at this Bill before he would invest the kinds of power that this Bill will give to the Executive Council. I would think that he would want to talk to the Deputy Premier . . . well no, not the Deputy Premier, because he doesn't understand the Bill. But maybe you'd want to talk to some other person in cabinet, maybe the Minister of Justice, and ask him what this Bill purports to do.

Mr. Speaker, why do we need this legislation now? This legislature has operated since 1905 without this kind of legislation. When the premiers in the past . . . Mr. Deputy Speaker, when the premiers in the past have changed the composition of particular departments, they have always brought these back to the legislature. We have then debated the pros and cons, and with some amendment, that legislation then has proceeded with, and we have carried out our duties as elected members.

The member from Quill Lakes, as I said, so eloquently this afternoon pointed out also that there are no assurances that the present legislation will protect the employees of the civil service. And that, Mr. Speaker — I hadn't thought of that before, but I think if one wants to inflict some sinister motives into this legislation, then I think one has to look at — and, Mr. Speaker, at the record that these people have had in the past, the way they've trampled on the rights for individual employees, it doesn't surprise me, or if not even sinister any more, that they would want to take away the rights of some employees. And if they don't like how some employees in a particular branch of government are operating, they can simply disestablish that particular branch, the employees no longer have jobs, and their rights are gone. And then the Deputy Premier and the cabinet can hire their colleagues and simply appoint those people to that position.

Mr. Speaker, that is taking a very sinister view of this particular legislation. But if you analyse the Bill, if you analyse Bill 5, there really are no limits put on the Executive Council. Bill No. 5, as the member from Regina Lakeview has pointed out, is much wider in scope — much wider in scope than any of the other legislation passed in Manitoba, in B.C., in Ottawa, or in the British parliament.

I hear the Deputy Premier saying, "Well then amend it," and I can assure you there will be an amendment coming forth. But it would have . . . Mr. Speaker, it would save all of our times, if the Deputy Premier simply withdrew this Bill or held the Bill, as my colleague from Fairview has indicated, and brought it back in some other form so that it wouldn't be *ultra vires* and it wouldn't have the wide scope that it presently has.

Mr. Speaker, there are a few other items that I want to address at this particular time. Why does the Deputy Premier, and why does the Premier want to erode and diminish, decrease our duties and our responsibilities here? The electorate saw fit to elect and vote in each and ever one of us. They have given us the responsibility and duties to perform. The voters in Saskatoon South have told me, by putting me here, to defend their rights, to stand up for their rights. And, Mr. Speaker, what they are saying to me is that, look it — if the government is presenting a particular Bill which will infringe on my rights, decrease my rights, or take them away, then we're asking you to stand up and oppose that kind of legislation.

And, Mr. Speaker, Bill 5 will do that. My colleagues have amply pointed out that there is no other legislation around similar in scope. There is no other legislation around similar in scope. And it is very, very difficult for us to accept the reasons why this Bill has been brought in. All the Deputy Premier said — efficiency. Efficiency.

Well, Mr. Speaker, when you look at this government it is . . . Well it's a laugh for them to talk about efficiency. In 1982 when they took over the government they had a surplus of \$139 million. Held a debt — the long-term debt in this province was 3.5 billion. What do we have today? We have a deficit of close to 3 billion. We have a long-term debt of close to 10 billion. And they talk about efficiency! That's why they want to bring it in? that's a laugh, Mr. Speaker. That's a laugh.

And to even put that forward is not only an insult to the members here, but is an insult to the electorate of this province. So one has to surmise that there's some other reasons why the Deputy Premier has put it forward. And I think that those sinister motives that they have are the ones that were related in this House this afternoon by the member from Quill Lake.

They want to disestablish certain departments because it does not fall in line with their thinking. They want to then establish new motives, new purposes, and not come back to this legislature to be answerable to us.

Mr. Speaker, I think we must do everything we can on this side of the House to either convince the Deputy Premier to move a substantive amendment or convince him that he is going to spend most of his Christmas holidays in this House with his other colleagues, because we will not permit this Bill to pass without substantive amendments. And I think that has to be made very clear to him. I would rather be home on Christmas time and new Year's, and spend it with my family. But, Mr. Speaker, I will tell the hon. members opposite that I will stay here; I will stay here as long as it takes to convince the members opposite that this Bill should be withdrawn or substantively amended.

**Some Hon. Members:** Hear, hear!

**Mr. Rolfes:** — Mr. Speaker, what does this Bill do? Well first of all, as the member from Riversdale pointed out the other day, this Bill seems to be a power grab by the cabinet. It's a power grab by the cabinet because they do not want to come before this House to explain the reasons why they need particular changes to legislation. So they want to operate by OC.

In other words, what it does, it concentrates the power in the hands of the very few — the Deputy Premier, the Premier, and a few of his other colleagues in cabinet.

Now what else does it do? What it does, and that's really what bothers me more than anything else, is that it decreases the power of the elected members in this Chamber. Not only the members on this side of the House, but all the back-benchers over there. And some of you will never — as much as you would like to aspire to it — will never get into the cabinet. You will never get into the cabinet. And I think you should remember that and speak out for what your electorates have told you to speak for.

Mr. Speaker, fourthly what this legislation does is allow the cabinet to govern by decree. They've governed by decree. All they have to do is pass OCs and they never

have to come before this legislature to explain why they had to have those OCs.

Mr. Speaker, the Deputy Premier gave very little explanation the other day when he gave second reading. As I indicated earlier . . . (inaudible interjection) . . .

Yes, I was here. I would like to inform the people who are watching television that the member from Swift Current is just debating with me as to whether I was in the House when the Deputy Speaker moved second reading, and I want to just tell the people and tell the member from Swift Current that I was in my seat when the Deputy Premier moved second reading to this Bill.

So I want to reiterate that the Deputy Premier gave very little explanation, and he wanted us to believe that this was a minor Bill that, you know, we'll pass it and we'll all be happy and you can all go home for Christmas. But, Mr. Speaker, that was not the case. When we further examined this Bill, we had to come to one conclusion, and that was that the Deputy Premier and the Premier had some hidden or sinister motive this Bill at this particular time.

And I believe, Mr. Speaker, that when the Premier looked at the results of the last election, he recognized that there would be a much stronger opposition. And if he was unable to do some of the things in the last four years with the eight or nine members that we had, he realized that he wouldn't be able to do nearly as much with 25 members — with 25 members. So he said to his cabinet, look it, if we want to do this, if we want to not go before the legislature, let's pass this legislation and we'll give all that power to ourselves.

I believe, Mr. Speaker, that the Premier and his cabinet have been manipulative; they are power hungry; and that they do not wish to face this strengthened opposition.

**Some Hon. Members:** Hear, hear!

**Mr. Rolfes:** — Mr. Speaker, I want to remind the Premier that the people spoke in the last election. Yes, they gave you a mandate. But, Mr. Speaker, they gave you a mandate with 44 per cent of the vote. Fifty-five per cent of the people voted against you, and they've asked you to be cautious, to listen — to listen to the opposition and listen to the people. And I say to the Premier, you better tread a little more cautiously or next time around you're not going to be on that side; you're going to be on this side of the House.

**Some Hon. Members:** Hear, hear!

**Mr. Rolfes:** — Mr. Speaker, I've also noticed in the House since I've been back that the Premier doesn't like some of the rules of the House, so he simply ignores some of them . . . (inaudible interjection) . . . he simply ignores . . . Some people also say he also ignores the House.

Mr. Speaker, what the Premier should be doing: the Premier should not be decreasing the power of the legislative arm of government, he should be increasing it. That way he'd be listening to the people. The people don't want an executive arm of government that can

simply govern by decree or govern by OC. The people want you to bring your legislation before this House, to debate it in this House, to debate it before the television, and then make the decision — not behind back doors, not let your patronage people decide and run his government, but let the legislation come here and we will debate it and pass it at that particular time.

Mr. Speaker, the Deputy Premier also stated in second reading that he did not want to debate in this Assembly the finest details of all reorganization with the government departments. Well, Mr. Speaker, no one asks him to debate the finest details. But, Mr. Speaker, we ask him at least to bring before this House fundamental changes in departments. We are asking him to bring that legislation before this House so that we can openly discuss it, openly debate it. And, Mr. Speaker, when there are fundamental changes made to the laws of this province in regards to education or social services or labour, you not only have a right but you have a duty and an obligation to bring those back to this legislature so they can be debated and the people will know then and only then whether or not we have made the right decisions in this House. And then, Mr. Speaker, they can make their decisions. They can make their decisions in the next election and decide as to who should form this government.

**Some Hon. Members:** Hear, hear!

**Mr. Rolfes:** — Mr. Speaker, again the Deputy Premier was either again ignorant of the facts, or I must say that he misled the House when he stated — and I've checked — when he stated that weeks upon weeks of time of this legislature have been spent on discussing reorganization of departments. It's not true; it simply isn't true. The legislature has never spent weeks and weeks debating and discussing reorganization. And the Deputy Premier should have been aware of that. And I say, Mr. Speaker, that he was aware — and he nods his head that he was — and therefore I can only surmise that he was misleading the House.

(2030)

If he says he knows, why then did he state it? He was misleading. Well, parliamentary rules would not allow me to use the other word, Mr. Speaker.

Mr. Speaker, as our House Leader, the member from Riversdale, pointed out the other day in this Assembly, there has been no consultation on this Bill. It is a conglomeration of power by the cabinet and it is a decreasing of the role of the elected members of this Assembly. The Bill, Mr. Speaker, allows the cabinet, by OC, by order in council, to establish new objects and new purposes for each government department.

Mr. Speaker, if they don't like a particular department right now they simply disestablish it and they don't have to establish a new one. But even if they did they could establish a brand-new department totally different, totally different from the other department; ascribe brand-new, totally different obligations and duties to the employees of that department, and never once come before this legislature to explain their reasons for making those

moves — not once.

And, Mr. Speaker, I ask you: is that democracy? Is that why this Assembly has been elected by the people of this province? If we allow them to do that, what is the purpose of this Assembly? There is really no purpose for it then because what you have is a government governing by decree; governing by order in council by the people appointed by the Premier, that is his cabinet.

That, Mr. Speaker, is the guts of this Bill, and we cannot allow that to happen; we must protect the rights of all members of this House. And again I plead with the members opposite. If you have any role to play at all, ask your cabinet tomorrow in caucus: what is your real intent of bringing this Bill forward now? What problems have you had in the past in getting your legislation through this House? There weren't any. There aren't any. So you must assume. Like I have assumed, that there are ulterior motives. There are other reasons why they want this legislation through, reasons they have not told you.

I just don't believe that the member from Cut Knife-Lloydminster, whose parents I have known for a long time and who I know personally, would want this legislation to pass. I don't believe that. I just don't believe that. And I think if he knew the real reasons for it he would tomorrow in caucus say to the Deputy Premier, hey, look, give me the real reason. Maybe you've got a good reason to have this legislation passed, but tell me what it is.

Now, Mr. Speaker, let me remind the Premier that the establishing and disestablishing of departments, the final authority for establishing and disestablishing of departments, has always rested with this body. It originates from the cabinet, it originates from the cabinet; they present it to this House and the final authority rests with us. We either defeat it, or we amend it, or we pass it. But you do not have the right to usurp the role of individual members in this House. And in my opinion that is what you are doing. You are diminishing our roles. You are saying to the electorate out there, I don't care whether they elected the member from Cut Knife-Lloydminster. I don't care whether you elected the member from Saskatoon South. We, the cabinet, will determine what your role is going to be. And, Mr. Speaker, to me that is unconstitutional, that is not democracy.

And that is not what we've taught our kids. We've taught our children to respect the principles of democracy, to cherish those traditions that our fathers and forefathers have worked for for so hard. And that is why many of the people came to this country. And as the member from Kinistino himself said the other day, that was one of the main reasons he came here. And I'm asking him now: look at that legislation and do you not see that this is in opposition to what you stated the other day in this House?

Mr. Speaker, I want to simply wrap up my remarks on this particular Bill by saying that this Bill does not do what the Deputy Premier has told us it would do. It is much wider in scope. There are no particular urgent reasons why it is needed. The past has worked well. We have always co-operated in this particular legislature even when we

were on the other side and many of you were on this side. We have co-operated when the government has presented reasonable legislation. It has always worked.

It may not have been as efficient, but what's the price that we're going to pay for efficiency? I say to the members opposite, please, let's not rush this through. Do what my colleague from Fairview has asked you do. Hold this legislation; bring it back in the spring session; consult with your legal people; and then let's have another look at it.

I believe, Mr. Speaker, there are some fundamental questions which have to be answered, asked and answered, before we can proceed at all with this Bill. If the present legislation has been effective in the past, why the fundamental changes now? Why the urgency?

Number two. Why do we want to give the cabinet the authority to overrule decisions made by this Assembly? Why do we want to do that?

**Some Hon. Members:** Hear, hear!

**Mr. Rolfes:** — And as my colleague from Fairview pointed out, we don't even have the authority to do that. It is *ultra vires* to this legislature. We can't do it. And even if we could, why do we want to do it?

Number three. Should we, the elected members of this Assembly, allow the cabinet, by simple order in council, to establish and de-establish entire departments of government, and thereby, Mr. Speaker, take away, abolish, the rights of many individuals, rights that have been enacted by this legislature and have been fought for by people for many years.

Lastly, Mr. Speaker, are we going to allow the Premier and his ministers to usurp the legislative duties and responsibilities of the members of this Assembly? I say no. And I don't know why the members opposite, who are not in the cabinet, why they would want the cabinet to take away your responsibilities, your duties.

Mr. Speaker, I think it would be a sad day in this legislature and in this province if we allow the legislature, and if we allow the cabinet in this legislature, to take away the responsibilities that have been given to us over many, many years — rights that have been worked at and enacted over the last 50 to 70 years.

I say to the members of this House, let us take a recess, withhold this Bill, come back in the spring and have a fresh look at it. And in the meantime, as the member from Fairview has indicated, why don't you take it to your legal people, have them have a look at it and do as the Deputy Premier has said — bring in some serious amendments, and maybe we on this side of the House then will be able to support it.

If not, Mr. Speaker, I agree with the member from Riversdale, who said the other day that this is nothing but overkill. It concentrates the power in the hands of a few — that is the cabinet — and it allows them virtually to do anything that they desire without coming back to this legislature and be accountable to us, the elected

members of this Assembly.

For these reason, Mr. Speaker, I urge all members to join with me in opposing this particular legislation and ask the Premier and the Deputy Premier to hold the legislation until the spring session.

Thank you very kindly.

**Some Hon. Members:** Hear, hear!

**Mr. Goodale:** — Thank you very much, Mr. Deputy Speaker. I have a number of comments that I wish to make on Bill No. 5 tonight. I don't think I'll keep the Assembly too long. In doing so I share some of the concerns that have been stated by the official opposition about the Bill. I think some of their remarks in this debate have been somewhat overstated, but not all of them. And while the government might giggle, as they have done, at some of the opposition's complaints about Bill 5, the government, I think, Mr. Deputy Speaker, would be foolish to be so smug and so arrogant as to ignore all of the fundamentals that have been raised in the opposition's case.

As a general comment, Mr. Speaker, I find the first portions of Bill No. 5, until you get up to section 12, to be marginally acceptable. But from section 12 onward come the offensive sections, and I would make specific reference to sections like section no. 12 and section no. 19.

I take exception, Mr. Speaker, to the notion that the objects and purposes of any department can be created, altered or eliminated without any reference to the Legislative Assembly of Saskatchewan. I would also take exception to the omnibus spending authority conferred upon ministers, again without any reference to the Legislative Assembly of Saskatchewan.

These provisions, it seems to me, are excessive. They do betray a kind of arrogance on the part of the government and they are fundamentally anti-democratic. They show this government, Mr. Deputy Speaker, cannot distinguish between the role of government and what is right for the province of Saskatchewan on one hand, and what is good for the Progressive Conservative Party on the other hand. They constantly run those two things together. They cannot distinguish between government and their own political party.

There is, I think here, an unprecedented grab for new power in this Bill, or to state it more accurately, Mr. Deputy Speaker, a transfer of power from the public in the legislature to the cabinet without any reference to public scrutiny.

This government has the reputation for having one of the biggest and most expensive political bureaucracies in the history of Saskatchewan and, indeed, anywhere in Canada. Now I'm not referring here to the legitimate public, service in the province of Saskatchewan; I'm referring to that tight cadre of partisan aides and advisors and assistants and consultants and counsellors in the Premier's office, in every minister's office, in many of the Crown corporations and other government agencies.

They are largely appointed and controlled directly from the top in terms of the Premier. They're very well paid, as we all know. Their objectives are obviously primarily political and partisan. They already have, Mr. Deputy Speaker, enormous power in the government in Saskatchewan today. They are the back-room planners and thinkers, the political handlers; they are the final decision makers; they are the ultimate power brokers.

This legislation that we're discussing this evening would increase that back-room, non-accountable wielding of power. It is already massive, and Bill No. 5 would make it worse. It's an attack, Mr. Speaker, not only on this legislature in general terms, it's an attack not only on the democratic traditions of Saskatchewan, it's an attack not only on members of the opposition, it is an attack too, on back-benchers on the government side and even on those ministers in the cabinet who don't happen to be in the Premier's favoured clique at any particular moment in time.

The members across the way already know that problems of that nature exist. They already know that some of them feel left out and used and abused and manipulated and taken for granted. They complain about that from time to time. It's difficult to get through all the flack-men and the handlers to get close to the inner circle, to get close to the Premier. You have the feeling sometimes on the government back-bench that you just don't count.

(2045)

What counts are the pollsters and the advertising agencies and the faceless, nameless, unelected advisors; what counts is the political machine. That's what counts, that's what matters, and that's where the clout is, Mr. Speaker, and Bill No. 5, coupled with Bill No. 7 that we discussed earlier, will only make that situation worse in the province of Saskatchewan.

And I would ask members opposite in the government caucus and outside the small core of the privileged few, I would ask them to think very carefully about Bill No. 5. I would ask them to think about the basic rules of parliamentary democracy, ask them to think about the ideals of this legislature, this central institution of our democracy. I would ask them to think about their own self respect as individual MLAs. I would ask them to think about it. And surely, having done so, they couldn't simply mindlessly rubber-stamp this kind of legislation which would violate some important traditions of this legislature.

Mr. Speaker, I would like to make some specific reference to some of my concerns about the spending authority issue which I mentioned a few moments ago. And that is included in section 19 of Bill 5. And if members read that particular section — I won't read it at this moment — if members read that particular section, they will find very broad, very sweeping language in conferring spending authority upon ministers of the cabinet. It's an omnibus kind of authority.

And the question might be asked, well, why does it matter? What's the point? What's wrong with that? I would give you a specific example of what's wrong with

that, Mr. Speaker, drawn from the recent experience that we have all had in the Saskatchewan election campaign. During the course of that campaign, one of the issues talked about a lot across Saskatchewan, sometimes favourably, sometimes unfavourably, was the program announced by the government on the eve of the election having to do with their new housing policy.

And concerns were raised by a great many voters in Saskatchewan about that program, about its timing, and about its method of implementation, which seemed far more designed for political purposes than housing purposes in this province. And specifically, Mr. Speaker, I would refer to the component within that program for the \$1,500 matching grants. And the question is raised, Mr. Speaker: where was the specific authority conferred by this legislature — the specific authority — for spending one-third of a billion dollars in that way? Where was the authority to do it?

The government tended to run from that question during the election campaign. But on investigation if you examine the statutes, the authority — if there is any — would seem to be found in the Saskatchewan housing Act, and particularly in section 16 of the Saskatchewan housing Act.

And again, Mr. Speaker, I won't take the time of the Assembly to read section 16 into the record at this particular moment in time. It's a section that is commonly found in many of the statutes of Saskatchewan, in common language in sections used for this purpose of conferring spending authorities. But the section refers to specific spending for specific purposes on behalf of specific people.

I remember very clearly, Mr. Speaker, in the television debate during the election campaign when I raised this point and made the argument that what the government had done in relation to its housing program, and particularly the \$1,500 matching grants, that they had, in fact, exceeded the authority that had been conferred upon them by section 16 of the Saskatchewan housing Act. When I made that point or at least raised it as a valid question, that the government may well have exceeded its authority in proceeding in the way that it did, I remember the look of surprise — and some would even say shock — on the face of the Premier, and I challenged him to test his program — if not before the courts, then at least before the Provincial Auditor — to determine if in fact he had the authority to do what he was proposing to do by virtue of that particular section in the Saskatchewan housing Act that I have made reference to.

Now, Mr. Speaker, if you compare the language of that section, section 16 in the Saskatchewan housing Act, with section 19 in this legislation, you will find that the section in the housing Act is very limited. The language in section 19 in this Bill before us tonight is very broad. It is an omnibus kind of authority, and this section, I think, is rather a tacit admission on the part of the government that I may well have been right in the point that I was making in the television debate. And indeed, if it were tested in a court, if it were challenged before the Provincial Auditor, that program that was announced on the eve of the election might in fact be found to be wanting in terms of

the legal authority to proceed with it in the way in which it was produced at the beginning of the election campaign.

This new section, however, if this Bill is passed, would correct that political defect. It would mean that no question would ever need to be raised about whether a section in the Saskatchewan housing Act had been exceeded or not, or a section in any other Bill or legislation had been exceeded or not. The omnibus spending authority is included in section 19 in the broadest of language and again without any further reference to the Legislative Assembly of Saskatchewan.

Again I would say in summary, Mr. Speaker, that I do not object to all of the provisions contained in this Bill, particularly those provisions contained in the first portion of the Bill. But the latter half of the Bill does seem to me to be at least questionable in terms of the issues that it raises about the powers and the objects of departments, and in terms of the spending authority in very broad language that it proposes to confer upon ministers in the future in both cases without reference again at any point to the Legislative Assembly of Saskatchewan.

And I would invite members of the government to be cautious with this legislation, to cool down and to slow down. Don't just ram it through for the sake of saving face politically. Don't just presume that because an argument is raised by the opposition that that argument is invalid. There may well be some truth on this side of the floor, just as there may well be some truth on the other side of the floor, too, Mr. Speaker.

As I mentioned in my throne speech, debate speech a few days ago, neither side of the Assembly has the market cornered on virtue, and it would pay us some dividends to listen to each other once in a while and to give each other some benefit of the doubt.

And I would say to the government this evening that they should slow down and cool down, think this thing through a little bit, listen a little bit, think about it some more, and please, above all, respect this institution which we all have the fundamental duty to defend.

Thank you very much.

**Mr. Prebble:** — Well, Mr. Speaker, I am pleased to enter the debate tonight. I think it's unfortunate, Mr. Speaker, that we're debating a Bill of this nature before Christmas. The Assembly would really be well advised, the government members opposite would be well advised to simply withdraw the Bill, and we could go home and members of the press could go home and you could go home, Mr. Speaker, to enjoy a Christmas recess, rather than debating this kind of a Bill.

But I think that it's not by accident, Mr. Speaker, in my view, unfortunately, that this Bill is coming to us just prior to the Christmas recess. I feel, unfortunately, that this Bill is coming to us today, Mr. Speaker, because the government members opposite have decided that they need to bring in this legislation while members of the public are busy with their Christmas shopping, with their preparations for Christmas, and are naturally not following the public business of this legislature as closely

as they do at most other times of year. I think that's the reason, Mr. Speaker, in a nutshell why this Bill is before us today.

And I think, Mr. Speaker, that in fact this Bill probably explains the major reason why this sitting of the legislature was called, in my view. This sitting of the legislature has been called to push through this Bill which essentially passes on to the cabinet enormous powers that, since 1905, have rested with this legislature. And, Mr. Speaker, that is simply, in my mind, inexcusable and unacceptable. And because we find it unacceptable, members on this side of the House feel obligated, as part of our responsibility to providing leadership in this province, to oppose the Bill and to continue the debate. And I think it's unfortunate, Mr. Speaker, that that's necessary at this point in the pre-Christmas season.

Now, I have a number of points that I would like to make about the Bill. The two sections of the Bill that concern me the most, Mr. Speaker, are sections number 12 and sections number 19. And for the sake of members who may not have read the Bill and for members of the public, I just want to highlight those two sections.

Section 12 allows the government — the cabinet — by order in council: "to establish, continue or vary any department and determine the objects and purposes of the department;" and secondly to: "disestablish any department;"

And, Mr. Speaker, I first want to address the question of establishment of departments because what we're seeing here today, Mr. Speaker — is that from now on members of the Legislative Assembly and members of the public are going to be asked to follow and monitor the new objectives that are set by the government, not from the Assembly, Mr. Speaker, but by way of reading the regulations that are published in orders in council. In other words, we are going to be asked to monitor the activities of government with respect to the setting of direction and with respect to the setting of objectives — which is after all a very fundamental aspect of government — by reading the regulations that are passed and adopted by the cabinet, and published. And really, Mr. Speaker, that is, it seems to me, unprecedented in legislatures across this country or in the British parliament. And it's simply not in the public interest to conduct the public's business in that way.

Now, Mr. Speaker, secondly I want to say that there isn't even any assurance in the future that necessarily all the regulations will be published. The way this government is operating, we're quickly moving towards a new kind of secrecy that we've not seen for some time. And I think that what this Bill does is it essentially moves a lot of decisions that are made by the government behind closed doors. And really, Mr. Speaker, that's most inappropriate.

Now the greatest concern I have about section 12, Mr. Speaker, is the subsection that says that the cabinet may, whenever they wish . . .

**Mr. Speaker:** — I'm sorry, but I must interrupt the speaker. Perhaps the member wasn't in the House earlier when I drew another member's attention to paragraph



734 which states that member should not discuss in detail clauses of the Bill. So you may speak in a general way about the Bill in second reading, but I would ask you to refrain from quoting from Bill. You will have ample opportunity to do that in the clause-by-clause passage.

**Mr. Prebble:** — Thank you, Mr. Speaker. I'll refrain from that, and just say that one of the primary purposes of this Bill is clearly for the cabinet to be able to abolish any department of government whenever they wish. And, Mr. Speaker, I find this actually in my own view to be the most alarming intent of this Bill.

I'd just like to comment, Mr. Speaker, on what I think may be some of the departments that the government would wish to essentially attack by way of passing orders in council.

I think, Mr. Speaker, in my mind that one of the departments that this Bill may be designed to launch an attack on is the Department of Consumer and Commercial Affairs. Perhaps members opposite are interested in eliminating some of the functions of the Rentalsman's office for instance, Mr. Speaker.

Another of the departments that I'd be concerned about would be the Department of Co-operation and Co-operative Development. Often, Mr. Speaker, I've had real doubts about this government's commitment to co-operation and to co-operatives. One of the important functions of the objectives of the department is to advise co-operative members of the Saskatchewan community on the establishment of new co-operatives, and to provide consultation and advice to existing co-operatives. That's the kind of purpose that I could see being eliminated by members opposite, Mr. Speaker.

In the Culture and Recreation department, I'd worry about things like the heritage resources branch, and whether the government members may wish to greatly reduce or eliminate that.

In the Department of Education, Mr. Speaker, I'd worry about something like the community education branch, and whether that could be eliminated by order in council as a result of this Bill being passed.

It wouldn't surprise me at all, Mr. Speaker, if this Bill was used by members opposite to launch an attack on the Department of the Environment and to reduce some of its duties and functions and objectives.

Mr. Speaker, one of the likely prime targets of this government if this Bill is passed is that they would use this Bill to eliminate many of the functions of the Saskatchewan Liquor Board and see those functions privatized, Mr. Speaker, and contracted out.

(2100)

It wouldn't surprise me, Mr. Speaker, if the members opposite used this Bill as a vehicle to launch an attack on the Land Titles Office, and to see that privatized.

Mr. Speaker, one of the departments that I would be worried about, where many of the services could perhaps

be eliminated from the point of view of government and contracted out, would be the provincial lab in the Department of Health. Are the members opposite going to use this Bill, if it's adopted, to then be able to pass simply by order in council, regulations that would do away with the provincial laboratory services that we have in this province that are very important?

For instance, right now the provincial labs do tests on specimens submitted by hospitals, physicians, or public health officials. That lab does testing on water samples, Mr. Speaker, that are submitted by the Department of the Environment.

That's the kind of function that the government could easily, if this Bill passes, simply have eliminated by passing an order in council without ever coming to this legislature, Mr. Speaker, and have those services contracted out.

**Some Hon. Members:** Hear, hear!

**Mr. Prebble:** — Mr. Speaker, it wouldn't surprise me if the government, who've never been big supporters of the Saskatchewan dental plan and who cut back dental care services for children age four years of age and 18 years of age, decided that, using order in council, that they would further reduce the scope and the services provided under the Saskatchewan dental plan. That's another area, Mr. Speaker, that has never been a favourite with members opposite.

Then, Mr. Speaker, in terms of health care, there's the mental health services and the psychiatric services branch. That's been another area of service that's never been highly popular with members opposite — that they never had a lot of commitment to. Now by way of regulation and order in council, if this Bill passes, many of the services in that department could be eliminated, Mr. Speaker, without every having to come to this legislature.

Another of the departments that's not been all that popular with members opposite, Mr. Speaker, has been the Indian and Native Affairs Secretariat. It's been poorly funded, and it could be abolished by way of an order in council if this Bill passes tonight, or in this sitting, Mr. Speaker.

Mr. Speaker, when you come to the Department of Labour, some of the areas that I'd worry about would be the toxicology unit, the occupational health and safety unit. A lot of the functions of the department with respect to its obligations to reduce hazardous and unsafe working conditions could be eliminated, Mr. Speaker. If this Bill is adopted those functions could be eliminated by way of order in council.

One of the areas, Mr. Speaker, some of the other services and objectives and departments that I'd be worried about, Mr. Speaker, if this Bill passes, are the Northern Affairs Secretariat, the Saskatchewan Human Rights Commission.

This government has been steadily whittling away at the Saskatchewan Transportation Company. It could be abolished, Mr. Speaker, simply by way of an order in

council without having to come to this legislature. The Women's Secretariat has never been particularly popular with members opposite. It could be done away with by way of this Bill.

Now, Mr. Speaker, I'm not suggesting for a moment that the government is about to launch an attack on all these departments. But I'm simply saying, Mr. Speaker, that among this list there are three or four prime targets that the government is no doubt looking to either greatly reduce their functions or to eliminate completely.

Mr. Speaker, what's so dangerous about this Bill is that members opposite could essentially eliminate those objectives of government or eliminate entire departments such as the ones that I've listed without ever having to come before this Assembly. And, Mr. Speaker, that is simply passing to cabinet an essential responsibility of this Legislative Assembly and it's removing one of the fundamental rights of members of the legislature to be able to debate decisions like that on behalf of the public before they become law. Mr. Speaker, I'm very alarmed that that kind of a function would ever be considered by any government and put in the form of legislation as it is in this Bill.

Now, Mr. Speaker, I also want to say a word about section 17. I think that the member from Assiniboia-Gravelbourg made a good point with respect to section 17 when he said that section 17 . . . And I won't go into the details of the section, Mr. Speaker, according to your earlier ruling, but just to say that this is the other fundamental section of this Bill. It's the second intention of this Bill, which is to greatly increase the ability of government to spend money without having to come under the full scrutiny of this legislature. I think, Mr. Speaker, that that's a very, very inappropriate and unfortunate section of the Bill that ought not to be in the piece of legislation.

I want to make some general comments on this legislation, in closing. First of all, Mr. Speaker, I think that this legislation essentially, as other members have mentioned on this side of the House, represents a major power grab by this government, timed very carefully just before the Christmas holidays when the attention of the public is not on this Legislative Assembly.

Secondly, Mr. Speaker, it's my view that this Bill represents an unprecedented attack on the rights of the Legislative Assembly and an attack on the rights and responsibilities of individual members who are attempting to represent their constituencies.

Mr. Speaker, one of the major rights and responsibilities of this legislature is to establish the objectives and direction of government and is to establish departments of government, and by removing that opportunity for members of this Assembly the government is doing a great disservice to this Assembly and to the people of Saskatchewan.

Now, Mr. Speaker, if members opposite were simply concerned with administrative efficiency the government would have brought in a large-scale subsequential amendment to all of the statute law in Saskatchewan that would result from this Bill. They would have also, Mr.

Speaker, in my view, tabled the orders in council that they wanted to introduce to streamline the process of government efficiency.

Mr. Speaker, if their objective was to simply make government efficiency they would have, in my view, brought in the subsequential amendments throughout all the departmental Acts that go together with this piece of legislation so that we could have seen them clearly, Mr. Speaker. And they would have brought in all the orders in council that they want to lay on the table to streamline government.

And if they'd done that, Mr. Speaker, then perhaps members on this side of the House would be prepared to take a serious second look at this piece of legislation. But the fact that they haven't done that, in my view, Mr. Speaker, indicates that they're not really serious about streamlining government and making it more efficient. What they want to do, Mr. Speaker, is move the powers of government from the legislature to the cabinet.

Now, Mr. Speaker, I want to comment now on one of the other concerns I have about this Bill which some of my colleagues on this side of the House have already raised, and I will therefore touch on it only briefly. And that is that this Assembly has the responsibility to consider whether or not legislation is *ultra vires*, in other words whether it's unconstitutional, Mr. Speaker.

And it's my view, Mr. Speaker, that this legislation borders on being unconstitutional or in fact is unconstitutional. And I think, Mr. Speaker, that that concern in itself should be sufficient justification for the government to take this Bill back, to review it again, to have their legal experts and other legal experts in the province comment on it to determine whether or not it is in fact constitutional, before they bring it here before this Assembly. They have that responsibility, Mr. Speaker and it seems clear that they have not examined that.

And, Mr. Speaker, I would be interested in hearing what members on the other side of the Assembly, government members, have to say with respect to the constitutionality of this Bill, and with respect to whether they have sought broad legal advice on whether in fact this Bill is constitutional or not. Because it would not surprise me, Mr. Speaker, if they haven't.

Now, Mr. Speaker, before closing I want to touch on some of the comments that have been made with respect to arguments put forward by members opposite regarding the fact that this Bill simply represents similar actions, is along a similar path to legislation that was earlier put into effect in places like the British parliament, the House of Commons in Ottawa, and in provinces like our neighbouring province in Manitoba.

And, Mr. Speaker, I want to point out to members opposite that this legislation bears no resemblance to the legislation they have made reference to in other provinces, or in other countries, at all. With respect to the British parliament, Mr. Speaker, one of the points that they've tried to make is that this legislation resembles legislation in the British parliament that is used to streamline the business of the British parliament.

Well I want to make two points here, Mr. Speaker. First of all, the British parliament is approximately 10 times the size of this Assembly. There's a need to streamline the activities of that parliament in a way that's not required in this Assembly, Mr. Speaker. To get a Bill through in the House of Commons or the British parliament is not an easy task. There's not nearly the difficulty involved in getting a Bill through this Assembly because of its much smaller nature, Mr. Speaker. So first of all, the need for streamlining is not the same.

But secondly, and I think more importantly, in the case of the British parliament the order in council abolishing a department of government, for instance, has to be — or establishing a new department — has to be laid on the table for all members of the House of Commons to examine or the British parliament to examine before it comes into effect. And it's only after that opportunity for examination that if there are no objections and no debate that order in council will become law. If there is no objections, the order in council will automatically go into effect and become law after 40 days. If there are objection, Mr. Speaker, then there's a debate. But what members opposite in this Bill are proposing is that there will be no opportunity for debate at all, Mr. Speaker. And so really this proposal is very different from the proposal that is used in Britain, in the British parliament.

In Ottawa, Mr. Speaker, order in councils must be tabled and they must be . . . if there is an order in council to establish a new department, or to abolish a department, those orders in council have to be tabled and they have to be approved by way of a resolution of the House of commons, Mr. Speaker. Now we see no proposals from members opposite, from the government, to do that by way of this Bill. What they want to do is make their decisions on passing orders in council to abolish departments in cabinet with no reference to this legislature at all.

Mr. Speaker, the members opposite have suggested that this Bill is similar to legislation in Manitoba. And again they are incorrect on that account because what Manitoba does, Mr. Speaker, in their Bill, is that they make provision in their law for some of the functions of the legislature and duties of the legislature to be streamlined and to be handled by way of order in council when they are changed. But, Mr. Speaker, Manitoba law makes no provision for the fundamental objectives of a government department to be changed without it coming before the Manitoba legislature. And that's what this piece of legislation does, Mr. Speaker, and that's one of the reason why this legislation, in my view, is highly inappropriate.

Now, Mr. Speaker, I want to make one more comment before closing, and that is that this legislation provides no protection for public servants whatsoever. A government department could be abolished, Mr. Speaker, by way of order in council and there are no guarantees that the members of the public service, regardless of how long they have served, regardless of what their functions are within the department, would have any kind of a protection. And a department could simply be eliminated and members of the Public Service Commission — or members of the public service — would have absolutely

no protection by way of this Bill, Mr. Speaker. And that's another issue that's not addressed in this Bill and another reason to be alarmed about this kind of legislation.

Now before I close, Mr. Speaker, I want to touch on one other major concern that I have, and that is with respect to a number of the possible implications that might arise from this legislation that are, in effect, objectives, duties and functions that come with the establishment of a particular government department, but for which there would not necessarily be any protection in the event that this Bill is introduced and a department can be eliminated.

(2115)

I want to use, for this purpose, the Department of Advanced Education and Manpower, which is my critic area, Mr. Speaker. One of the areas that I would be concerned about if this Bill passes, Mr. Speaker, is what would happen to areas of the Department of Advanced Education and Manpower Act that make provision for things like the academic freedom of universities, Mr. Speaker, or for immunity from liability for universities, Mr. Speaker?

If this Bill was passed, do we have any guarantee that the orders in council . . . (inaudible interjection) . . . Mr. Speaker, would we have any guarantee that the orders in council passed by the cabinet would necessarily protect the academic freedoms of the universities? We have no guarantee, Mr. Speaker. In fact, Mr. Speaker, my interpretation of this legislation is that in theory — I'm not implying this motive to members opposite — but that in theory the provision of academic freedoms to the universities of this province could be eliminated by order in council, Mr. Speaker, that this would not need to come before the legislature.

I just give this as an example of why this is a bad piece of legislation. I'm not suggesting that members opposite are planning to do that, Mr. Speaker, but what I am saying is that this piece of legislation would give members opposite, would give any government that follows members opposite, Mr. Speaker, the ability to eliminate section 9 of The Department of Advanced Education and manpower Act that makes provision for academic freedoms for our universities and do it by order in council without coming before this legislature.

I use that, Mr. Speaker, simply to make the point that the powers of this Bill, if it comes into effect, are far too broad, that this Bill is simply a bad piece of legislation that ought to be withdrawn immediately. It's a power grab that's unprecedented in the history and tradition of this legislature, Mr. Speaker, and I urge members opposite to withdraw this Bill and to bring back a Bill that will streamline the efficiency of government without taking away the due rights of members of the legislature, of members of the Legislative Assembly, and of this Assembly itself, Mr. Speaker, and the public that we represent. Thank you very much.

**Some Hon. Members:** Hear, hear!

**Ms. Smart:** — Mr. Speaker, the hour is late, and I'm sure

the other members of the legislature are as tired as I am, but unfortunately I must rise in spite of being tired, to speak for myself and on behalf of the constituents of Saskatoon Centre about this Bill that the government is trying to push through just a few days before Christmas.

I wonder if the members opposite have actually studied this Bill, especially the back-benchers on the government side. I wonder if they've read it and had some discussion about it. I wonder if they can understand it. Because to me it's just as serious an issue as any of the other issues that we've had to rise to speak to since this Legislative Assembly began the 21st Session not so long ago.

We've had to speak over and over again about the need for this Legislative Assembly to respect the parliamentary traditions of our Assembly and to put ourselves forward to work for democratic government, rather than the kind of government that Bill seems to represent.

Now it's interesting to me, when I was listening to the throne speeches, to hear the members opposite talk so much and such purpley prose about their attitudes towards government and towards freedom.

The member from Maple Creek, the Minister for Consumer and Commercial Affairs, said this in her speech:

We are now embarking on a second phase of an important journey, a journey of building this province with a government that supports and protects the people and responds to our citizens' needs, rather than a government in which it itself becomes a dominant factor, dominating the people and doing the major activities by itself.

Mr. Speaker, it is my contention that the members on this side of the House, the members currently in opposition, are the ones that are supporting and protecting the people and responding to our citizens' needs.

And it is the members who are forming the government at this particular point in time who are creating a government which in itself becomes a dominant factor, dominating the people and doing the major activities by itself. Certainly by itself, because the intention is to leave out the opportunity for the opposition to debate the changes that may be made to government departments.

They make a big show of being opposed to big government, Mr. Speaker, and yet look at they're doing with this legislation. They are the ones that are sanctimonious in their righteous descriptions of their government, and in the purpley prose that they use to throw people off guard as to what their actual intentions are. I think this kind of rhetoric throws people off guard, and I want the people in Saskatchewan, and particularly in Saskatoon Centre, to understand what is being proposed here with this Bill to reorganize the Executive Council. It's very important that they understand that this government is in a power grab; that they want to — and he's admitted it; the minister from Souris-Cannington has admitted that they are in a power grab. They love the trappings of power, and it's very much against the freedom and the democracy that we stand for in Canada.

One of the things that the government opposite continues to want to do is to see the people of Saskatchewan as somehow different from the Government of Saskatchewan, talking continually about what the people want, and talking about government as being a dominant factor as if somehow they are not contributing to this government being a dominant factor.

With this kind of Bill that's before us they are very much contributing to dominance. This Bill has been misrepresented by the minister from Souris-Cannington, telling us that it's the same as what they have in Manitoba, and it's not; the same as what they have in Britain, and it's not; and the same as what they have in Ottawa, and it's not. And that argument has been very well put forward by the colleagues on this side of the House.

I find it very dishonest that this government talks about freedom and big government as if somehow they stand for good values and principles when they can come forward with this kind of legislation.

Mr. Speaker, freedom is indeed very precious. It's precious to us in Canada and it's something that we must protect and understand. To some people freedom means the right to do whatever they want to do and to heck with everyone else. To others freedom means the kinds of co-operation in how we are going to govern ourselves here in the province; to come to a mutual understanding of the laws that we live under and to create them together so that we know where we're going and we know what we're doing as we continue to live together in this great land.

We need government, and we need good government. It's our way of protecting ourselves from the forces that we don't control any other way. The question is very much what kind of government we're going to have in Saskatchewan for the future.

I believe that democratic government is the best, and what I heard from the members opposite is a belief in an autocratic government that I find really quite frightening. They don't seem to believe in government by the representatives of people in this legislature. They seem to believe in government by secrecy of cabinet and bureaucratic order — just the very things that they say they're opposed to. This is what they're bringing in with this legislation.

I find it quite amazing that people can be so contradictory. How can you possibly talk and criticize other governments when you can do this kind of thing to the very precious government that we have here in Canada and in Saskatchewan?

This government claims to dislike bureaucracy, but under the current department structures bureaucracy is clearly organized and the decision-makers are identified. Under this new Bill where decisions can be made in Executive Council without coming to the floor of the legislature, who knows who the decision-makers are? Who knows what decisions are being made? How do they get out to the public? How will we ever have an opportunity to work out together what we want in this democracy?

This legislation obviously must be amended to make it reflect the kind of values that we all say we believe in. Now in speaking to this Bill, Mr. Speaker, I would like to take the time to reflect on what this Bill means very specifically to the department that I'm the critic of, the Department of Consumer and Commercial Affairs. I'm quoting from a letter that we've received from the Legislative Counsel and Law Clerk advising us on the content of this legislation. And I'm referring also to the proposal in the new legislation that departments can be discontinued, disestablished, transferred, pushed around, rearranged, in spite of the people that are working in them, and in spite of the reasons for those departments being set up in the first place.

Now the standard department Act has the following provisions. All these provisions are in every Act, as I understand it, and they seem to be fairly clear. Each department establishes the continuation of the department and names it. There's the power in the Lieutenant Governor in Council to adopt a seal. There's the establishment of deputy minister position and power to hire any necessary employees. There's the power to hire technical or expert advisers. There's the power for the minister to establish advisory committees, which can be very useful. There's a broad outline of the department's area of authority, that is the mandate of the department, the enumeration of the powers granted to the minister to carry out the department's mandate. There's the power to provide grants and financial assistance, although some departments don't get enough — provision requiring an annual report and power to make regulations.

There is no difficulty in placing all these common provisions in one Act and making them applicable to all departments. And if that is what this Bill intends to do, then by all means let us get on with the business of streamlining the legislation. This could be an improvement as it cuts down on non-essential repetition.

However the provisions necessary to state the department's name, mandate, and powers would have to be drafted in terms of authority to enact an order in council that would create a department, give it a name, describe its mandate, and grant to it some general and some specific powers to achieve that mandate.

This provision will be critical. It will have to be vague enough to permit the creation of any department that might appropriately be created, while at the same time specific enough to prevent abuse, if that is a problem in this area.

Now I'd like to turn specifically to the Department of Consumer and Commercial Affairs, because there are specific provisions in existing department Acts which will pose some difficulties if they're removed or interfered with.

(2130)

The Department of Consumer and Commercial Affairs was established to take care of all that part of the administration of the Government of Saskatchewan that

relates to consumer and commercial affairs and that is not by law assigned to any other department or agency of the Government of Saskatchewan that shall be under the control of the department. And this department shall have general supervision of consumer and commercial affairs and shall examine and report to the minister from time to time on matters related to consumer and commercial affairs.

I'm reading from Section 5(b):

... make inquiries into and report upon consumer (and commercial) affairs legislation in force in Canada and elsewhere and, on the basis of the inquiries and reports, make recommendations to the minister with regard to consumer (and commercial) affairs legislation;

5 c) investigate complaints received by the department respecting alleged contraventions of consumer (and commercial) affairs legislation or respecting practices that are alleged to be contrary to the interests of consumers;

And

5 (d) disseminate information with respect to consumer (and commercial) affairs matters . . .

I'm being very specific about this Act because I think it's important to understand, from the point of view of a specific topic, what the Bill means.

The first section . . . there are several impacts to Bill 5. One is that Bill 5 allows for the transfer of powers, duties or functions from one minister to another through the simple amendment of legislation.

So what will happen to Consumer and Commercial Affairs, a department by the way, which was set up as a result of the pressure and the power of consumers in Saskatchewan to try to make their interests represented in the government to put in place the regulations that can help them in the market-place? What will happen to the Consumer and Commercial Affairs if this Bill gives it the power to be transferred? Will it go to the Department of Small Business and Tourism? Are consumers to be lumped in with the interests of small business?

What will happen to the power of the department to investigate complaints received by the department respecting alleged contraventions of consumer and commercial affairs? That investigation can be very important. Will it be transferred, for example, to the Department of Justice? But the Department of Justice is a big department, concerned already with enacting the laws and setting up new laws, and a consumer complaint can very often be dealt with without having to go to something like the Department of Justice. These complaints alert us to the need for improvements and can help us to have that kind of consolation with the people that the government says it values, so it belongs in the Department of Consumer and Commercial Affairs which is very much a department in touch with the people of Saskatchewan.

What about Section 5(d): disseminate information with respect to consumer and commercial affairs matters. What would that be transferred to? The minister responsible for Consumer and Commercial Affairs makes a great point in her throne speech debate of underlining the value of education. But it could very well be transferred by Bill 5 into something like the Minister of Education's jurisdiction and offered to students in a Grade 5 class, and that would be the end of education for people on consumer issues.

Another point that can happen with this legislation is the point that's been well spoken to by other members on this side of the House, the possibility of disestablishing the departments without transferring the powers, duties or functions. That is a very important power that we are proposing to . . . by this Bill that the government is proposing to put into the hands of an Executive Council and not bring to the floor of this legislature.

What would we lose if the Department of Consumer and Commercial Affairs was disestablished? We would lose the power to have legislation supervised. I'm not saying these Acts would be discontinued, because I realize that they would not, but the Department of Consumer and commercial Affairs plays a very important role in regulating and making sure that both consumers know about legislation that affects them, and that legislation is put in place that protects them.

It's also interesting to see the Acts that affect mainly the commercial affairs of Saskatchewan and have been very important in regulating the business community. There is, for example, The Auctioneers Act. That controls how auctioneers function in Saskatchewan. Perhaps the member from Melfort has some reason to get involved in having direct control over such an Act, but I suggest that an Act like that, or an Act like The Business Names Registration Act are Acts that help business people to know what their competition is doing, to understand the rules and regulations that they operate under, and that other people will operate under. And they have been put in place to help small businesses and people who are entrepreneurs to conduct their business and be able to be also fairly treated by other people who get into the same business with them.

There is The Companies Winding Up Act, which is obviously important. People need to know how companies are going to be fixed and wound down when they go out of business. There is The Mortgage Brokers Act; The Motor Dealers Act which controls how car companies will be functioning in Saskatchewan — a very important Act because it's such a competitive business; The Partnership Act which controls how people work together in partnership in business — an issue that can be very important to the business community because of the difficulties that people get into; The Real Estate Brokers Act; The Saskatchewan Insurance Act. Those are only a few that, I think by looking at them, affect the business community, would be of concern to people engaging in commercial affairs in Saskatchewan. And who would regulate? Who would co-ordinate? What department would oversee these Acts?

Mr. Speaker, there are also many Acts that come under

the jurisdiction of the Department of Consumer and Commercial Affairs that are very important to consumers. And it has taken consumers a long time to get recognized by government. Many Acts in the past favoured the business community. It took a long time for the consumers to also get some Acts in that protected them. I'm thinking for example of The Collection Agents Act which is an Act that controls how people's goods are reclaimed and taken back by businesses when they're not able to make payments. And anyone who's read the history of Saskatchewan, in the 1930s will realize that a Collection Agents Act is a very important piece of legislation for people — people who today are experiencing bankruptcies, experiencing their credit line running out, experiencing debt in a way that I think is probably quite horrendous for people when it happens to them.

And the Collection Agents Act talks a lot about controlling collection agents — how they can work; whether they can harass you in the middle of the night with phone calls; whether they can come and take your furniture and put you out on the street; whether they can write letters and constantly harangue you, even if you're sick, or something else has happened that you have no control over. There are many documented cases of people suffering from the unregulated activities of collection agents, so it's very important that this Act be in place, and it's very important that there be a department to look after it.

An example of a new Act that's come into place as a result of consumer pressure, I'm sure, is The Condominium Property Act. Condominiums are a new development; they're a development that's had some problems, and it's important that an Act be put in place so that we know what we're doing when we build and buy into a condominium.

One of the most important Acts covered by Consumer and Commercial Affairs is the Consumer Products Warranties Act. Consumers in Saskatchewan have some warranty on every product they buy. This Act outlines sellers' and manufacturers' responsibilities with regard to the sale of all consumer products in the province. And this Act also means that a disclaimer or exclusion clause is invalid for consumer sale.

That's an Act that the New Democratic government brought in, in 1979. It's been a very important Act for people — to know that they have some protection if they buy a product that does not live up to its expectations, they can get some compensation. And it's been a very good Act on behalf of the people of Saskatchewan. Another one that's been important is the cost of credit disclaimer Act. Now some of you may remember before there was legislation in the province what it meant when you signed a credit slip. You were responsible for the debt you that you incurred, and you often didn't know exactly how that compounded interest was going to add up.

This legislation, The Cost of Credit Disclosure Act, requires that all credit contracts contain certain information: the name and address of the seller; a description of the goods or services sufficient to identify them; and a statement of the price, credit charges, terms

of payment, security taken and the true annual interest rate. The agreement must be signed by both parties and a complete copy given to the consumer, to the borrower.

Now people opposite are laughing at this. They seem to think it's a funny idea to have a Cost of Credit Disclosures Act, but for people who were trying to take a loan out and borrow for furniture before this Act came in place there were often very disastrous results.

This government seems to think that if they educate people enough, this sort of thing won't happen. But when you sign on the dotted line for a line of credit for a piece of furniture and say you're going to pay in advance — pay over time for the piece of furniture — and if you don't know what the interest rates are going to be at the end of it, a lot of people got caught with a large payment that they weren't prepared for, and often ended up having paid for the piece of furniture twice over, and losing it in the end, anyway.

So it was important to have this legislation in place, and it's important to know what department is going to control it. The Minister of Consumer and Commercial Affairs said in her throne speech that the activities of the Department of Consumer and Commercial Affairs are designed to strengthen the confidence of the consumer in the market-place. She says:

As we all know, the alternative to a strong market-place is an ever-growing government bureaucracy with the resulting limitations of freedom on each and every one of us as consumers.

I say to you, Mr. Speaker, that the Minister of Consumer and Commercial Affairs has not got the priorities of the department correct. She hasn't got the argument correct here, because an alternative to a strong market-place is good regulations.

**Some Hon. Members:** Hear, hear!

**Ms. Smart:** — It is regulations put forward by the government, which is the people of Saskatchewan if we have a full legislative House enacting the laws, and it's very important that consumers have that protection. They are people in Saskatchewan too, and they depend on the government legislation because individually you can't always protect yourself. You need to have a sense that regulations and laws are provided on behalf of all of us to make the society run smoothly.

Some other Acts that have been very important and have been enacted lately is the Direct Sellers Act. That Act was very important because people were being pressured at the door to buy materials that they didn't want. They were signing contracts that they didn't want to sign, and some of it was intimidation, some of it was high pressure from salesmen. Many of the people that were most deeply affected by the door-to-door selling were senior citizens.

When I canvassed in Saskatoon Centre, I met many older people still living alone in their own homes, some of them quite frail. And having someone come to the door and tell you that your roof is rotten and you've got to have new

shingles and they'll do it for a cheap price and standing in your doorway looking fairly big, looking fairly awesome, can be quite intimidating to an older person.

(2145)

So it was a very good idea that the Direct Sellers Act was put into place. It was a very good idea that there was a Department of Consumer and Commercial Affairs to look after this interest on behalf of the seniors and to put in place some laws and regulations that would control the direct sellers.

And I notice, with approval, that the Act was amended by the government opposite to give people ten days to consider a contract that has been signed at the door, rather than the four days that was in the Act earlier. The more time that people have to learn and to understand what they have committed themselves, the more time that people have to talk to their neighbours to learn about an Act like The Direct Sellers Act, the more time they have to protect themselves. And that can only be a help to the consumers of Saskatchewan, to the people of Saskatchewan, because all of us are consumers at some point or other. All of us depend on a strong Department of Consumer and Commercial Affairs.

There is The Homeowners' Protection Act, and, a very important Act for Saskatoon Centre, The Landlord and Tenant Act and The Residential Tenancies Act. That is an Act that is obviously one that the current government might be interested in changing or dealing with in some even less effective way than they are now. It's been a very important Act for the tenants in Saskatoon Centre. It's one that I'd like to see strengthened rather than weakened, and I'd like to see it remain, of course, under the Department of Consumer and Commercial Affairs where it should be properly looked after.

I've had experience with an Act that's under the Department of Consumer and Commercial Affairs called The Non-profit Corporations Act, a very good Act for helping groups of people organize themselves together into a community group and work on their own interests. It's a very valuable Act because it helps people, representing all sorts of issues, to work together in a way that they can understand. They clearly know how they're organized. They know how to proceed with their business, and I think that's what the issue of government is all about.

I notice another Act called The Pyramid Franchises Act, and we all remember when pyramid franchises were active in Saskatchewan. And again, it was mainly older people who got trapped by that scheme, victimized by it, and therefore legislation had to be put in place to protect them. It was good that there was someone there listening to the concerns and able to move on presenting legislation to help them.

And the final Act that I'd like to talk about is The Theatres and Cinematographs Act. That's the Act that brings in the Film and Video Classification Board.

**An Hon. Member:** — Are you sure you've got the right speech for the right Bill?

**Ms. Smart:** — No, I don't think I have the right one, but I know I'm talking about a very important Act to people. The video stores that were selling pornography or renting pornography to children, was a very great concern. It was a new development; we hadn't ever had this before in Saskatchewan. These stores came in and they set up very quickly, many of them in every community — terrific competition, lots of resources there — some of which are absolutely terrible. The community was enraged. The consumers got very upset about it. They wanted you to do something. The pressure was on you; the pressure was on the department. The consumers knew who to go to to put the pressure on to get legislation put in place that would help us deal with the situation of the video stores.

If all these issues are diffused, if a department like the Department of Consumer and Commercial Affairs, is threatened and can be destroyed . . . disestablished, excuse me, by an Executive Council, we will lose the ability to focus on one department whose mandate is to take care of people.

Now one of the things I had mentioned already was the fact that this Act proposes to transfer powers from departments to disestablished departments. And the third thing that apparently it will do is to give the Executive Council the power to establish new departments and determine the objects and purposes of the department. So a scenario goes through my mind something like this: the Department of Consumer and Commercial Affairs is disestablished so there is no one to look after the consumer interest, there is no one to look after the interests of small business, commercial affairs.

I wonder what the Premier's vision is with the power to establish a new department? Perhaps, given the kind of activity that's been going on from this government and the kind of questions we had in the House today, the Premier is proposing a department of multinational corporations in agribusiness, certainly a department that would have the consumer's interest not at all at heart. I wonder what is objective could be? I could see an objective like: to sell out Saskatchewan. The purpose of such a department could be to see that the consumers — the same consumers whose interests have been dissipated by the lack of a department to focus on — they would get low wages, no benefits, no safety regulations, no protection from the businesses that are being brought in.

Perhaps even the consumers might be faced with legislation that would require them to have to eat pork three times a day in order to be able to deal with the tremendous output from all these bacon plants and hog producing, hog slaughtering factories that are being set up in the province when there's not the stock to put into them.

There could be very broad powers in establishing new departments without a discussion here in the legislature.

You can smile, and I know it can be funny, because when you start to have visions you can really amuse yourself quite a bit sometimes. But it is important, and I would like to say that we should be very careful in the legislation that

we enact, and the way in which it affects the department.

Now I'd like to go very specifically again to the Department of Consumer and Commercial Affairs and talk about some sections in this Act which, if they were taken away, or if the department was disestablished, or if these sections were taken away, we would have some real problems.

I'd like to refer, first of all, to sections 6 and 7. These two sections in the Department of Consumer and Commercial Affairs legislation that establishes the Department refer to the minister's power to order inquiry or investigation:

(1) The minister, or any such person who is authorized in writing by the minister to do so, may investigate or inquire into any matter where the minister has reason to believe that an investigation or an inquiry is expedient of the due administration of any matter within the jurisdiction of the department.

(2) The minister or person making an investigation or inquiry under subsection (1) may at all reasonable times demand the production of and inspect all or any of the books, documents, papers, correspondence or records of the person in respect of whom the investigation or inquiry is being made.

(3) (And) any person who has the custody, possession or control of any books, documents, papers, correspondence or records demanded under subsection (2) shall produce them and permit the inspection thereof by the minister or the person making the investigation or inquiry.

Now what happens if the minister's powers under this section are increased by an Executive Council? That means the Executive Council can go into anyone's business and make an investigation or an inquiry, demand the production and inspect all of their books, go into their premises and demand their papers, their records. It gives the Executive Council a tremendous amount of power over people who are affected. Anyone they wanted to get at, they could just issue an order in council if this department wasn't there and if the minister doesn't have the power. They could issue it to anyone.

7. A person who does not comply with subsection (3) of section 6 is guilty of an offence and liable on summary conviction to a fine of not more than \$500 and, in default of payment, to imprisonment for a term of not less than seven days or more than thirty days.

Now what that means to me is that the Executive Council is taking unto itself the power to find someone guilty of an offence and liable to a fine or to a prison term. That's very frightening to think that the Executive Council could give someone that power without it having to go through a minister of a department and be something that could be questioned here on the floor of the legislature.

Sections 8 and 9 give the minister the power to issue a stop order.



The minister may, where in his opinion such action is in the public interest, order a person to cease:

(a) using a particular form of advertisement in any business or undertaking where he is of opinion that the advertisement was made in contravention of *The Cost of Credit Disclosure Act* (which I've already told you about) or any regulation under that Act.

If the minister thinks that it's in the public interest, he will order a person to cease "using a particular form of contract in the sale of goods or services."

Now that's a very important clause because it raises the question of what does this government mean when it says it's going to work in the public interest? I've already expressed my concern about what's meant by the public, because this government seems unclear as to whether the public is all of us or whether the public is a few vested interests that they want to represent.

If the public is all of us, they would not take into their own hands the power to order a person to cease using a particular form of contract in the sales of goods or services because those particular contracts can be very important to the consumer. They can be well regulated by the Department of Consumer and Commercial Affairs, and they can also be well messed up and changed by somebody behind the scenes. That's why we're talking about the problems of having a power-grab kind of government. It's very difficult to make sure that all these things don't happen unless there's a chance to talk about it here at the legislature.

The other thing that the person may be able . . . that the Executive Council was taking onto itself:

. . . in the public interest, (to) order a person to cease selling, offering for sale, advertising for sale, or distributing any goods or services in any business or undertaking.

That's pretty broad — that's pretty broad. The minister has that power now. But you may well take that power into some back room, and it might well do in competition rather than stimulate it. You keep talking about how much you believe in competition. Why would you have something like this that could easily suggest that you can manipulate it behind the scenes.

**Some Hon. Members:** Hear, hear!

**Ms. Smart:** — I also notice under section 8(2):

Subject to subsections (4) and (6), an order made by the minister under subsection (1) expires after five days from the day on which the order was made.

And that's part of the Department of Consumer and Commercial Affairs. What happens if that's taken away? An order could go on for ever, an order to seize someone's goods and books and interfere in their own

personal lives in a way that is really unacceptable here in Saskatchewan.

Section 9 also refers to the minister's powers to issue a stop order, and sections 10 and 11 give the Attorney Generals power to initiate class actions on behalf of consumers.

I know that my time is running out, but I want to underline how important this Act has been that establishes The Department of Consumer and Commercial Affairs, to establish for the consumers of Saskatchewan a department and a jurisdiction that will protect them. Under section 10 of this Act:

The Attorney General, for the benefit of any persons or class of persons who have suffered loss, or who allege that they have suffered loss, by reason of a person:

And in this situation it's very often a person that has a lot more money and a lot more power than the power who have suffered the loss, or who allege that they have suffered the loss.

The Attorney General:

may commence and maintain any action or proceeding against the person that the persons could have commenced or maintained on their own behalf at the time the action or proceeding . . .

Very important power from the Attorney General. And I want to know what will happen to that if we put in legislation that will allow the Department of Consumer and Commercial Affairs to be destroyed — or disestablished — excuse me.

I would urge the members opposite to take this Bill back and to amend it so that we can have the law that will streamline the process but that will in no way destroy the institutions that we already have. Thank you.

**Some Hon. Members:** Hear, hear!

**Mr. Shillington:** — I have a number of comments I want to make. I will, in view of the hour, beg leave to adjourn the debate and let the Government House Leader adjourn the session. So I beg leave to adjourn the debate.

Debate adjourned.

The Assembly adjourned at 10:01 p.m.