EVENING SITTING

COMMITTEE OF THE WHOLE

Bill No. 13 — An Act to repeal The Mineral Taxation Act

The Chair: — I would ask the Minister of Energy to please introduce the officials who are here with him tonight.

Hon. Mr. Anguish: — Mr. Chairman, I have with me this evening Mr. Bruce Hall, who is the director — behind me — of industrial minerals branch, and Pat Youzwa who is the deputy minister of Energy and Mines.

Clause 1

Mr. Britton: — Thank you, Mr. Chairman. Mr. Chairman, I've been waiting patiently to get at the new minister and this new Bill is going to give us a lot of time to get at it. So, Mr. Chairman, I want you to get ready for some real heavy stuff here.

Mr. Chairman, Mr. Minister, after perusing this Bill in depth, and I've went to great lengths to talk about it with my colleagues, and in the interest of cooperation and time I think what we'll do, Mr. Minister, is allow this Bill to pass.

Hon. Mr. Anguish: — Well, Mr. Chairman, we accept the spirit of cooperation. I would like to thank the officials for coming out this evening and assisting me with the first Bill that I've had to put through the Committee of Finance. And with that I would move repeal of The Mineral Taxation Repeal Act.

Mr. Britton: — Thank you, Mr. Chairman. I also thank your officials and I certainly would have liked to have this happen before supper so you wouldn't have had to come out, but thanks very much for coming out.

Clause 1 agreed.

Clauses 2 and 3 agreed to.

The committee agreed to report the Bill.

Hon. Ms. Atkinson: — Thank you, Mr. Chairperson. I would ask for leave to introduce additional amendments to Bill 7, The Social Workers Act.

Leave granted.

Bill No. 7 — An Act respecting Social Workers

Clause 15

Hon. Ms. Atkinson: — Mr. Chair, I would ask to:

Amend clause 15 of the printed Bill:

(a) by deleting subsection (1) thereof and substituting therefor the following:

15(1) With the approval of a majority of those members who vote at an annual meeting or special meeting, the association may make bylaws for any purpose set out in section 16."; and

(b) by adding immediately after subsection (6) thereof the following new subsection:

"(7) the registrar shall forward copies of proposed bylaws to all members by ordinary mail sent at least 14 days before the date of the annual or special meeting at which they are to be presented."

Amendment agreed to.

The Chair: — Just on that, we will need then a further agreement on the clause 15 as amended. Is that agreed?

Mr. Martens: — Mr. Chairman, if that is the only part that has to be done, we'll take all of them and put them in a bunch, and all the leaves that are necessary to accommodate the Minister of Social Services, if that is fine with the Clerk.

Clause 15 as amended agreed to.

Bill No. 14 — An Act to amend the Statute Law

Hon. Mr. Shillington: — Thank you very much, Mr. Chairman. We have with us tonight from the Department of Justice, Andrea Seale, Susan Amrud, and Madeleine Robertson.

Clause 1

Mr. Toth: — Thank you, Mr. Chairman. Mr. Minister, just a couple short questions on . . . This is Bill No. 14, I believe, the statutes law.

An Hon. Member: — This is Bill No. 14.

Mr. Toth: — Okay. An amendment . . . If I understand correctly, this is more technical in nature. It's a lot of changes and housekeeping. Is that correct?

Hon. Mr. Shillington: — Yes. I might have started . . . I think I said that when I gave them second reading. As a matter of policy, all we include within an Act called The Statute Law Amendment Act are typos. These are all in the nature of typos. If they are substantive changes, they have to go somewhere else. So these are all . . . I assure the member these are all typos.

Clause 1 agreed to.

Clause 2 agreed to.

The Chair: — To facilitate the handling of the Bill, is it agreed that we proceed page by page?

Pages 1 to 6 inclusive agreed to.

The committee agreed to report the Bill.

Bill No. 15 — An Act to amend The Limitation of Actions Act

Clause 1

Mr. Toth: — Thank you, Mr. Chairman, and Mr. Minister. My apologies. I should have welcomed the officials earlier. We get so used to seeing the same pleasant faces coming in, it's a pleasure. I understand from this Act we're actually opening up limitations on opportunities to possibly resurrect or raise assault charges going back a number of years. Is that true, Mr. Minister?

Hon. Mr. Shillington: — This Act deals with a problem with respect to sexual assault. Where sexual assault occurs, particularly on children, they often have no means of getting redress for a lengthy period of time. Sometimes they reach adulthood with little memory of it. So with respect to matters involving sexual assault, the limitation period is removed entirely.

I stress to members of the opposition that the judge always has the discretion to refuse to hear or to refuse to consider evidence which he considers unreliable because it is too old. And judges will always weigh the evidence, and if it's unreliable they will not accept it or act upon it.

This removes a technical limitation which has proved very troublesome in this area because many of the victims are too young to complain and have no means of complaining and because in children the psychological tendency is, they tend to block out the memory and they have little memory of it.

(1915)

Mr. Toth: — Thank you for that, Mr. Minister, but I just want to bring to your attention that it would seem to me when you just open the door wide open, as this Bill seems to do, and in light of the types of accusations that seem to be coming forward, the fact that in our society nowadays, it just seems that it doesn't matter what a person does; you never know what interpretation could be taken from it.

I think it could create a problem. And I'm wondering what kind of real protection is in the Bill, or if there's any protection at all. It would seem to me, Mr. Minister, that you may end up in a situation where . . . Let's just take an example where a parent, let's say a father, is in his 60's and maybe a daughter — and I'm just throwing this out as a hypothetical example — could be in their mid-40's or whatever, may reflect back on the changes in society and what we interpret as having been a sexual assault or maybe some kind of assault on a person's rights, and raise it just due to the fact that society has changed. And what that then does is really creates a great deal of animosity in an older person's life. And I'm just wondering, Mr. Minister, what checks and balances . . . You said that the judge has the ability to, say, listen to the case, each individual case, and determine. It would seem to me that it would be appropriate to lay out at least some guidelines that would have some control and some . . . should I use the word, restrictions, or at least placing responsibility on individuals, making them accountable for their actions. Has anything been done like that, Mr. Minister?

Hon. Mr. Shillington: — I can tell the member that the question which you raise gave members of cabinet and members of caucus some concern. At the end of the day it seemed a question of balancing the rights of people who have no means of complaining — no practical means of complaining — against the rights we normally accord people to be protected from very old charges. The whole philosophy, if I may put it that way — jurisprudence is a better word — the whole jurisprudence behind limitation periods is, there is an onus upon the person to complain in a reasonably prompt fashion. That rationale, however, doesn't apply in sexual assault cases where people are often so young and where there's psychological blockages.

The primary protection is I think . . . and when we thought about some limitations but were unable to write any limitations which we were satisfied would work very well. And at the end of the day I think we decided best to leave it in the discretion of the judges. Keep in mind that if the courts think it appropriate, they can always write the rules of court which will govern the procedure involved and will govern how evidence may be presented.

So the judges have a wide discretion over what occurs within their court, both as a matter of . . . inherently and through the rules of court. At the end of the day we decided we'd best leave this to the judges to work their way through because the kind of cases in which all this would arise seem to us to be too varied to attempt to draw some definite rules which we would put in the Act.

Mr. Toth: — Thank you, Mr. Minister. It would seem to me, Mr. Minister, that in light of what's transpiring in our society nowadays it still wouldn't have hurt to have at least some form of restrictions or at least some guidelines because even in the judiciary a judge's interpretation or the interpretation of a court can really vary from one case to the other. It would seem that depending on the . . . not just depending on the evidence, a lot of it can even depend on the judge that's on the bench at the day. One judge may give one interpretation. Another individual might give another interpretation.

So just for the sake of most individuals I think it would have been appropriate to at least had some guidelines in the Bill to, if you will, have some restrictions, laying out some of the responsibility of the claimant so that indeed at the end of the day we're not raising up a lot of assault charges or questions that maybe are 20 or 30 years old.

And we all know the fact that your interpretation of what assault may be . . . we're getting to the point now if you just happen to look the wrong . . . look at a person the wrong way, you never know whether . . . what's going to come your way. And I think it would be appropriate to have something that would really at least address that and make sure that we're not just opening laws that become wide open for wide discretion.

Hon. Mr. Shillington: — I'm sure the member understands this. This has no application to criminal law at all. With respect to criminal charges for assault, those may proceed at any time. Again, it's a matter of the Crown proving their case. But those charges may proceed at any time.

This applies purely to civil cases where a victim of an assault will sue for damages. This has no application to criminal law at all. There's now no limitation on criminal actions, and criminal actions do now arise decades after they occur. And I've defended several myself. And they're not uncommon for sexual assault charges to arise decades after the event. This doesn't affect that at all. This only affects a person's right to damages.

Much of what you suggest would normally be covered off in the rules of court if the bench thought it appropriate. They can set out in the rules . . . They have fairly broad discretion in the rules of court to set out matters of procedure, how evidence should be presented, and like matters. So a good deal of protection can be provided by the bench both inherently in the courts and in the rules of court.

But I hasten to add, this is just in relation to civil matters; there's no bearing at all on criminal matters.

Mr. Toth: — Did I hear you right? Is that . . . that this is dealing with cases where persons would bring up charges seeking compensation for problems that . . . or maybe a problem that was associated in years past. Is there a limit as to what a person can claim? Or is that kind of wide open? Or is that interpretation from the court as well?

Hon. Mr. Shillington: — No, that's set, that is, the general principles as to how damages are calculated are set out . . . is a wide body of law established at common law, and it is actual damages. You're entitled in this case normally to actual damages.

The calculation of them can be a very complex process. You need to calculate everything from loss of income, which can be done in some objective fashion; the questions such as pain and suffering, which are wholly subjective; injury to the person, which is a little of both. But the whole matter of calculating damages is a very complex matter which is dealt with exclusively by common law, by reference to previous decisions and the body of law which builds up on those.

Mr. Toth: — So that what you're saying, this could refer to even an employee-employer relationship or any relationship on that basis where people are involved, more than one.

Hon. Mr. Shillington: — Yes.

Clause 1 agreed to.

Clauses 2 and 3 agreed to.

The committee agreed to report the Bill.

Bill No. 18 — An Act to amend The Victims of Crime Act

Clause 1

Mr. Toth: — I'm just wondering if the minister could just quickly brief us on what the purpose of this Bill is.

Hon. Mr. Shillington: — The member will recall that the Crimes Compensation Board was a victim of budgetary restraint, and we set up in lieu thereof a fund. This sets out the rules under which a person may apply, and it sets out the . . . this provides the limitation, in effect, and says that the application then can be brought within a year of a time the victim understands the nature and recognizes the effects of the misconduct. So it sets out the limitation period of a nature of which we were talking about in the previous Bill, actually.

Mr. Toth: — So, Mr. Minister, when you talk about the person or the victim understanding, let's say it's . . . Are you saying that, say, five years down the road a person comes to or feels that maybe they've been victimized, and they make a claim; they have a year to state that claim or lay that claim of the victims' fund. Is that what you're saying?

Hon. Mr. Shillington: — A year to apply. That's right. I've had cases myself in private practice where victims had no memory of it, were clearly suffering from all the effects of some things; sexual assault is a very common one. They get help, and all of a sudden they understand what's happened. Then within a year of a time of understanding it, they've got to apply. And of course they've got to satisfy the powers that be that they did bring it within a year of a time that they understood it, and the onus is on them to prove that.

Mr. Toth: — Well, Mr. Minister, you're saying . . . telling us that it begins at a time when a victim feels or assumes or I guess comes to a point in their life where they may feel they've been victimized. Who determines that? Like, that could be . . . possibly a person could be a year after something took place. It could be two years. It could be 10 years down the road.

Who determines whether that victim finally who took that . . . or that individual that period of time to finally realize that maybe they had a claim or an opportunity to come to the claim point?

Hon. Mr. Shillington: — The initial determination is made by the Department of Justice officials, and of

course it's always subject to review by courts in the prerogative writs. They've got to act judicially and in accordance with the law and give people a fair right to be heard.

But apart from the ordinary rules with respect to exercise of judicial . . . or exercise of administrative discretion, it is the Department of Justice which will make the decision.

Mr. Toth: — So then an individual, if they felt they had a claim or a right to a claim, would approach, I guess, seek legal counsel and approach the department, laying the claim out or expressing this claim, and then the department would pursue it and see if indeed there is a legitimate claim to be followed up on. Is that . . .

Hon. Mr. Shillington: — That's basically accurate, except there may be no need to engage counsel. There's an application form provided and I think many would approach without engaging counsel. Some of the sums involved are not that large. And they may well decide they want to handle it directly, and I think many would.

Many of the people who came before the Crimes Compensation Board — in fact I'd say that most of them — were never represented by counsel. They just handled it directly. Otherwise you're comment's correct.

Mr. Toth: — So what you're saying — and I'm just trying to get an understanding of this — you're talking about, you have a year after you feel that maybe you've got a claim in place, the right to a claim. But when you're talking about that period beginning, is that period associated to the time that the victim feels that they have right to a claim or is that period, the one-year period, associated with the time when they fill out a form and apply to raise the claim or raise the matter before the department?

Hon. Mr. Shillington: — No. They must fill out the application form within a year of the time they understood the crime and were cognizant of the effects of the crime.

Mr. Toth: — I guess that's the part I'm having a hard time trying to understand, where the determination is made on the date. Because, like, a victim may feel that they've got the ability or the right to file for a claim from this point and who is to determine . . . like they're contemplating in their mind whether or not they should actually apply.

And so let's say six months have gone by; they've been thinking that maybe they've got a right. They're aware of the legislation. Six months have gone by from that time. And then they pick out a form and they fill out the form and they send it in to apply for the claim. Does that claim, the next period, actually start from the time they send the form in? Or who is to determine whether it was six months down the road or past that they actually finally realized that maybe they fit into this category and applied under this legislation or fit the legislation?

(1930)

Hon. Mr. Shillington: — Under most circumstances the year; under most circumstances they have a year from the crime. We're making this unnecessarily complicated, I think. Under most circumstances they have a year from the crime to file the application. If they don't get the application within a year of the crime they've no right to compensation, so they've got to apply within a year.

This section is simply worded in such a fashion that if they don't become aware of the crime for a period of time after it occurs — and on rare occasions that can happen — then the right to compensation . . . then the one year runs from the date they become aware of the crime. That's all this is. They've got to apply within a year of the crime, but if they're not aware of the crime for a further period of time, the one year runs from the date they become aware of the crime. That's probably stating it a lot more simply.

Mr. Toth: — Okay. So what you're actually saying then is that in actual practice a person has a year to apply for damages. If for some unforeseen reason they weren't aware of the fact that they could apply, this extends somewhat beyond and then the court — or is it the Justice department? — then determines whether or not the individual is aware of that and makes allowances so that they can indeed get their claim processed.

Hon. Mr. Shillington: — Yes, that's accurate.

Mr. Martens: — Mr. Minister, if we take the example that was used on when the person becomes aware of it: you used the example of a person that's been victimized and not mentally recognize that they are victimized, and you used assault cases as one of those. What's to determine the day the clock starts ticking? Is there some way that a doctor must recognize this, or a psychiatrist must recognize this, as the date from which it begins? Because you could have some people coming in and saying, oh, I remembered it eight months ago when in fact it's been bothering them for five years. Is there some way that you have of determining that that is the day in actual fact that it happened, or whether they just want compensation when they find out they can get some money?

Hon. Mr. Shillington: — As I say, the year would normally run from the date of the crime. If they are going to allege that they weren't aware of the crime or its effects until afterwards, they'd have to provide some evidence of that beyond the bald statement that they were unaware of it.

The decision that's made here is no different than the decision judges make all the time about intentions and understanding. So the decision is basically the same as judges make all the time about when someone understands something and is aware of something. Normally though, you've got to provide . . . Normally you expect people are aware of something when it happens. If they claim they didn't know it until

later, they'd have to provide some evidence of that under normal circumstances to be believed.

Mr. Martens: — On the basis of that, what . . . (inaudible interjection) . . . Yes, I understand what you said. On the basis of that, if the court would then determine and go back and ask the question, when did you first understand what was going on, and then determine whether in fact she was eligible for that, or he, whatever.

Hon. Mr. Shillington: — Yes, that's accurate. I would just point out that the determination's made by the department, not the court, in the first instance at least.

Mr. Martens: — So then the Department of Justice will make sure that that is determined prior to the individual going to seek compensation from the court.

Hon. Mr. Shillington: — Just let me be perfectly candid with the member. You're basically right, except that the amount awarded . . . it's the department which makes the determination, not only about whether they're within the year but the amount of compensation as well. Courts would be involved only if a victim asked for judicial review because they felt the department had not handled it properly.

Normally, end to end, the department handles it.

Clause 1 agreed to.

Clauses 2 to 5 inclusive agreed to.

The committee agreed to report the Bill.

Bill No. 16 — An Act respecting the Interpretation of Enactments and prescribing Rules Governing Acts

Clause 1

Mr. Toth: — Mr. Chairman, I'd like to maybe get the minister for a minute to interpret the Act for me, please.

Hon. Mr. Shillington: — This Act, just in general terms, this Act updates . . . There is presently a statute which sets out guidelines for interpretation of statutes; it's called The Interpretation Act. And it sets out a variety of rules which judges use in interpreting statutes. It has not been updated for some time, and this Act updates the interpretation statute . . .

I was just confirming something that I thought I remembered. There is in Canada a body called the uniform law commissioners which regularly review what we call lawyers' Bills, and this is one of them. This in fact is a product of the uniform law commissioners and is, I suspect, being adopted across Canada.

There's a fair amount of detail, and I think no overall general principle. There's a whole lot of more smaller things that are being done. But I can perhaps tell the member it was a product of the uniform law commissioners. We anticipate it will be adopted across Canada and generally sets out rules for judges to interpret statutes.

Mr. Toth: — Mr. Minister, I notice just by quickly looking at the Act, there's a number of different sections in the Act, and I think maybe this is getting some of the technical information a lot of people aren't all that concerned about.

But for our knowledge, I wonder if you could take a minute just to explain what the difference . . . what you mean by the difference. You get into rules of construction. You get into public officers, calculation of time. Rather than me getting up and asking you, could you just explain what the purpose of the different sections of the Act and what it covers.

Hon. Mr. Shillington: — I'm not sure I could do justice to that question. You're asking really for a repeat of the second-reading speech. I'm not trying to be difficult here, but there is no . . . There's no general principle here except that we're updating the statutes relating to interpretation. Other than that, there's a lot of detail in here and no general thread that runs through all of the various sections. I'd almost have to go through the things almost section by section.

So I don't know that I can give you a brief description of what it's doing beyond what I've already done. Otherwise I'll have to get into what each section does. I can certainly do that if the members want it.

Mr. Toth: — Just for one example there's one section that talks about calculation of time and section . . . and not really wanting to get specifically into each clause but just for general . . . rather than waiting till that time. We talk about where the time for doing an act falls on a holiday, the times extend to the next day. I take from that that if it falls into a holiday period, like say something comes into effect, you're actually . . . it goes to the next working day? Even a business, it falls onto the next working day is actually coming into effect. Is that what you're saying?

Hon. Mr. Shillington: — That's right. This is a section which deals with the time within which certain things must be done. A very common example of the use of this is for the service of documents. If the Deputy Premier were to slander me and I were to sue him, I would have to serve him with a notice that I'm suing him within 15 days. What this section says is if the 15th day is on a Sunday, then I can wait until Monday to complete the service because it may not be possible for me to find him on Sunday or for me to engage the necessary officials to do it. That's what that section means, is that when the law requires something to be done by a certain day, it means the first day on which businesses are generally open.

Mr. Toth: — Well I'm glad it's the Deputy Premier that you're looking at maybe possibly be sued and not me.

Well what you're saying is that if that time period . . . like you have your 15-day time period and there's a holiday period that there's an added day onto it so that you're not caught on a position where it isn't a

working day.

Mr. D'Autremont: — Thank you, Mr. Chairman. A question related to the same type of thing. With Crown corporations, do the same type of extensions apply? If my SGI (Saskatchewan Government Insurance) licence on my vehicle runs out on a statutory holiday or a Sunday, can I get access to have that carried forward to the next working day without paying a penalty?

Hon. Mr. Shillington: — No. As a general rule, this section . . . Well not as a general rule. This section does not apply to times within which payments must be made. And it doesn't matter whether it's your grocer's bill which says within 30 days or your licence fee which says within 30 days. You must pay that and it must be received by the end of the time or you'll be charged interest.

So this section does not apply to any obligation to pay for anything, whether it be a licence fee, grocery bill, or anything else. This section doesn't apply to payment of . . . legal obligation to pay for services or goods which have been received.

Mr. D'Autremont: — Well, Mr. Minister, that disappoints me. I find it surprising that we would allow extension of papers for lawyers, but if a person needs an extension because he hasn't had the opportunity to purchase his licence because it was a Sunday or a statutory holiday, that he would now face a penalty because of that. I think that it should be done fairly. If we're going to allow extensions for time limits for lawyers, then the rest of the general public should also have that same privilege.

Now you may say that because it's a payment that there's a special case there that they should have made that payment by the certain date. If they go in the day later than the first working day, they have lost that protection that they would have had in the case of the SGI. But why should they be forced to pay an additional penalty? If in the case of the lawyer, you owe in the next day. You don't lose the case because you were a day late because the law says that's not the case. You are given that extension.

I really believe that with the Crown corporations, you should be given that extension to the first working day. I believe with The Income Tax Act, you are given that grace to move to the first working day.

Hon. Mr. Shillington: — No, in fact that's not the case. If April 30 comes on Sunday, you got to get it in to the post office . . . they often leave the post office open on Sunday. No, that's actually . . . your example's not a good one.

I recognize . . . the member makes a very interesting argument actually. It's not in the Bill and it would . . . I think the Department of Justice would be reluctant to, in their statutes, in these lawyers' Bills as such, pass something which had an effect upon another department, in this case a Crown corporation. It's really cut them out of their area.

I guess the only justification I have to the member is in, generally speaking, these sections have had no application to the obligation to pay for goods and services. They're more strictly construed.

Mr. Martens: — Mr. Chairman, and Mr. Minister, under the areas of corporate rights and powers, I noticed that you make fairly extensive observations about the liability of individuals in relation to the corporation. Does that apply to the chief executive officers of these corporations, the individuals in the corporation where they have limited . . . or access to liability? Take on page 6 . . . 5, 6 and 7, you have under section 16, you have some significant applications that could be made in liability charges. Could you explain some of them to me and provide a direction for the committee.

Hon. Mr. Shillington: — This again is done by the uniform law commissioners and we're sort of . . . we rely extensively on their work. It attempts to deal with what has been a growing problem and that is the two-fold, sort of two-headed problem of conflict of interest and liability of directors and officers. Now an officer isn't always easy to define. It certainly includes the CEO (chief executive officer); it certainly excludes the cleaning people. And in between, you've got some interpretation problems. But it generally includes the senior people. It's plagued the business world in Canada.

(1945)

The whole matter of what's a conflict of interest and what is a duty and so on. This was done by the uniformity commissioners in consultation with the chartered accountants institute of Canada, the Canadian Bar Association, and the various business groups, and is an attempt to strike a balance between the need of these senior people to have some freedom of action with the need to define their responsibility when their action falls short of standards which are generally acceptable in society.

So that's what it is, is an attempt to strike a balance and has been done at a national level of which we're sort of really adopting it here, really sort of adopting their work without attempting to improve upon it.

Mr. Martens: — I attended, Mr. Minister, I attended a meeting that was sponsored by the auditor last Friday and we talked quite a bit about chief executive officers being responsible for actions that they take. And if we use the case in Alberta where the court is now going after — what is it? — Principal. They're going after the owners. Would they not qualify to go and take civil action against or criminal action against these individuals . . . not criminal, civil action against these individuals? Would they be limited, if they had this Act in place, to actions being taken?

Hon. Mr. Shillington: — It would hard to say whether they would be more limit . . . whether their liability would be more limited or more general. It would certainly be clearer what their obligations are. The

purpose of this law is certainly not to affect any existing cases, but the purpose of this law is to clarify the law so that one can reasonably tell directors and officers what their obligations are.

Under the current law it's very difficult to tell directors and officers what their liability is under the law in any comprehensible fashion. This is really an attempt to clarify it for the future. It actually would not affect any case now in progress, as a matter of interest.

Mr. Martens: — I wasn't worried about any case in progress, I was just wondering whether those principles would apply to those cases . . . (inaudible interjection) . . . Okay, the minister said yes, they would. It says there that: "No officer or director of a corporation is personally liable for any debt, liability, obligation, act or default of the corporation."

Those are very broad. And then earlier on it says the individual must "act honestly and in good faith with a view to the best interests of the corporation."

And those are the kinds of things that I think you need to be concerned about.

The question I would have in relation to that: how many provinces do have this in their legislature, and does the Government of Canada have a similar controlling factor dealing with all of the corporations that are registered as Canadian corporations?

Hon. Mr. Shillington: — Let me say for the benefit of the member opposite that these provisions are now in The Business Corporations Act. Principal Trust may not have been the best one because it was a private corporation. These principles are now in The Business Corporations Act in this province and all others and has been for some time.

The effect of this section is to make the same provisions applicable to Crown corporations. The federal government has done this. One or two other provinces have done this. But this province is now applying the same standards of care to Crown corporations as is assumed by the . . . as people in private corporations have had for some time.

Mr. Martens: — So, Mr. Chairman, and Mr. Minister, if I was to be asked to be a director of Husky Oil or of SGI, I would have the same principles allowed to be conducting business on the basis of that. Is that right?

Hon. Mr. Shillington: — That's right. And of course it's always possible for a government to establish higher standings than this if they want. They may say that, with respect to a Crown corporation, you can't drive a Lexus automobile or something. I don't know; I just . . . that example just sprung at me out of the air.

But you can always have higher standards, but this sort of sets a legal minimum. The minimums are the same as in the private world. So the member is basically accurate.

Clause 1 agreed to.

Clauses 2 to 15 inclusive agreed to.

Clause 16

Mr. Martens: — It says here that, "*The Business Corporations Act, The Non-profit Corporations Act* . . . " Is that to do with . . . I'll use as an example, we have corporations, non-profit corporations, which are . . . I'll give you one in my situation where there's a school that's been made into a non-profit corporation and the group in the community own this and they have certain rules and regulations that they have to have a meeting and all those kinds of things, an annual meeting and all that. Are they also under this and have the same liability, access or not access, as directors? Is that the same in a business corporation as a non-profit one? And then if I took it even further and then I use a bigger non-profit, using one like Sask Sport, for example.

Hon. Mr. Shillington: — Yes, the same provisions apply. With respect to the non-profit corporations, it's a different statute. It's The Non-profit Corporations Act which contains it, but the rules would be the same. This applies to Crown corporations. The other corporations mentioned in section 16 are where you'd find the provisions relating to business corporations, or non-profit corporations, or whatever.

Mr. Martens: — One other thing, under part (3) of section 16:

A corporation has perpetual succession and may:

Does that mean that even after the corporation would close its doors, it would still have the right to be sued and to sue in its corporate name?

Hon. Mr. Shillington: — A technical answer to your question is yes. The official advises me that normally when Crown corporations are wound up, the statute which winds it up deals with the question of future liability. So normally you'd find that in the statute winding it up. But the technical answer to your question is yes.

Mr. Martens: — Okay, you answered the question on a Crown corporation. What about a business corporation, a non-government Crown?

Hon. Mr. Shillington: — No, there are really different rules apply to private corporations. The Crown is perpetual; the private corporations are not. The rules relating to private corporations are really different and will vary depending on how and why, and under what circumstances, the private corporation was wound up.

Mr. Martens: — Under 3(d) there, it says "acquire, hold and dispose of property other than land;" Why is land being treated different in there than other assets?

Hon. Mr. Shillington: — I'm informed that — perhaps for historical reasons, I'm not sure why — every

Crown corporation's right to acquire and dispose of land is subject to an individual decision. This deals with none . . . this deals with anything else but land and gives them the right to hold it. Land however is dealt with differently, and I'm told in each case the right to acquire or sell land is subject to an order in council. And so it's dealt with in a different area.

Mr. Martens: — So, Mr. Chairman, and Mr. Minister, then if SEDCO (Saskatchewan Economic Development Corporation) owned land, or it would have taken it over because they had assets in that land and then they disposed of the company, that land would be dealt with in a different form than strictly disposing it in a civil suit in related items.

Hon. Mr. Shillington: — Yes, the member stated the matter correctly.

Clause 16 agreed to.

Clauses 17 to 49 inclusive agreed to.

The Chair: — Order. I must ask that if others want to carry on conversations that are not related to the business of the House they do so behind the rail and not disrupt the proceedings of the committee.

The committee agreed to report the Bill.

Bill No. 17 — An Act to amend The Fatal Accidents Act

Clause 1

Mr. Toth: — Thank you, Mr. Chairman. Mr. Chairman, if I understand . . . or Mr. Minister, if I understand this Act, this Act extends benefits to common law. The term "spouse" refers now to common law, in common-law relationships as well, and extends the benefits that could be incurred or claimed by a common-law spouse in the event of a fatal accident or in the event of a claim due to an accidental death. Is that what you're saying?

(2000)

Hon. Mr. Shillington: — That's correct. At common law, no action could lie because of a death of a person, and so at the end of the last century legislatures made provision for damages in the event of a death of a person. This extends that to common-law spouses and extends, as you can see in section 4(2), extends the kinds and the areas in which monetary loss may be recognized and calculated.

Mr. Toth: — Mr. Minister, in looking at a person making a claim and due to the complexity of our society nowadays and the fact that persons enter the relationship with maybe another individual and yet they still haven't legally had a marriage annulled or a divorce take place, what happens in that? How is this Act affected? Would the individual who's been maybe possibly living with that person have the right then to claim, or is it the actual wife who's still, under The Marriage Act, still part of that relationship?

Hon. Mr. Shillington: — No, it is conceivable that both might claim. If you were to be divorced and remarried, it is conceivable that both might claim. Any person who is a dependant, who suffers loss as a result of a death of a person, may claim damages. You've got to prove actual monetary loss. But it's conceivable that both could claim if both the lawful spouse and the common-law spouse both sustained damages. The insurance company for the negligent driver, assuming that's how it happened, would have to pay damages to both. No, it's conceivable that both would be compensated.

Mr. Toth: — Well if that's possible, then it certainly opens up the door, or I would think it would open or possibly open up the door for some fairly substantial claims because two parties involved laying claim . . . I guess it depends on what type of claim. Would it be the relationship prior to or following that, and how much of the claim can a party go for and what terms of the claims? I suppose this is something that would be settled or would have to go to the courts to decide what is accessible or what's available. Is there a limit on the amount of claims that can be given, and what process is involved?

Hon. Mr. Shillington: — This is again . . . Assessment of damages is a matter for the judges. It's very complex. They have to try and estimate actual damages. There is no legal limit on the amount that can be claimed. The practical limit is usually the amount of the insurance policy since that's all that's available to pay. But that's a practical limit. There's no legal limit. And some of the awards can get extremely high. The awards can get into the millions and sometimes tens of millions of dollars in rare cases.

Mr. Martens: — Just to have it clarified a little beyond that, if there's an individual who is still married, has divorce proceedings going on, and is cohabitating with an individual who has children, are they also in this whole circle?

Hon. Mr. Shillington: — They will be once this is passed. Anyone who is a dependant, who suffers loss by reason of the death, can claim. It is conceivable that could include both the lawful spouse and a common-law spouse. Actually had a case of this where a person was killed as the result of a drunk driver, had a long-term and permanent relationship but common law, had severed a marital relationship some decades earlier. The only person eligible to claim was the lawful wife who did not know he was dead for some months afterwards actually. So the answer to your question is yes, they could both claim. Again a judge is going to scrutinize this and only calculate actual monetary loss on this.

Mr. Martens: — Okay, Mr. Minister, go on one step further. The children of the divorced spouse and the children of the cohabitated spouse, can they also make claim?

Hon. Mr. Shillington: — It includes children, stepchildren, adopted children, illegitimate children,

anyone who is a dependant, yes.

Mr. Martens: — Would this impact in any way, Mr. Minister, with claims under the widow's allowance or an allowance through Canada Pension Plan? Would this make any impact on those kind of claims at all?

Hon. Mr. Shillington: — No, this doesn't affect pensions or insurance in any way, shape, or form, as those are governed by different statutes.

Mr. Martens: — On any insurance claim, whether it's life insurance or any of the insurance . . . let's say it's an accident and SGI or any of those kinds of claims.

Hon. Mr. Shillington: — No, I might not have been as precise as I should have been. It wouldn't affect things like life insurance and pensions. It certainly would affect third-party liability insurance such as SGI provides to everybody. No, I may not have said it. When I said it wouldn't affect pensions or insurance I meant pensions or life insurance.

Mr. Toth: — Mr. Chairman, what is determined as loss? Like what actions can be taken? When you're looking at loss what do you look at? Through the Bill I see a couple of things are mentioned here. We talk about medical and hospital expenses, funeral expenses. What areas can a dependant claim for under this Act?

Hon. Mr. Shillington: — With respect to fatal accidents and fatal accidents only, the section 4 defines loss to be actual monetary loss. There's no loss for pain and suffering. Some jurisdictions do, but this is one that doesn't. It's just actual monetary loss: loss of support, funeral expenses, etc. And then this goes on and in the new (c), (d), and (e) includes three additional kinds of monetary losses which courts in earlier cases had concluded didn't fall within the existing section. So this section . . . really the section 4 is a response to interpretation of the earlier Act by courts in cases which came before them.

Mr. Toth: — So what you're saying then, Mr. Minister, is when you're looking at monetary loss, are you basically then . . . you would be identifying — what would you say? — the earning power of that individual over that period, a period, if that person's life hadn't been ended; the earning power of the individual over a period of time as well as then you get into actual expenses incurred due to the seriousness of the accident and all that? Is that what you're telling us, Mr. Minister?

Hon. Mr. Shillington: — Yes. It varies from case to case. It's monetary loss. It can be extremely large if you kill a . . . if you were negligent and the person who dies as a result of your negligence is a 35-year-old brain surgeon whose income would be in the hundreds of thousands of dollars a year and whose spouse does not work and who has four or five children, the damages could be extremely large.

On the other hand, if the deceased is perpetually unemployed and has made no contribution to . . . made little or no contribution to his family, the damages would be very small. So it's the actual contribution which the deceased would have made to the family, to the immediate dependants.

Mr. Toth: — So when you're talking of monetary loss, Mr. Minister, you're actually referring to basically the job or the monetary value of the job that the person was performing then.

Let's say a person that could have been . . . It's an individual, say in their early 30's. We're quite well aware of the fact that people can rise, do move, do change occupations, and their earning ability can change over the years.

What you're saying: what this present Act just deals with, what the earning power that that individual would have had if they would have remained or continued to work at that present level. Is that . . .

Hon. Mr. Shillington: — Judges have some very difficult cases to decide here. A judge has got to try to figure out: was he going to improve himself? If he had a drinking problem, was it going to sink him or her? Judges can have some very difficult cases because they've got to try and figure out what a person would have done with the rest of their life.

The fact that it's difficult doesn't mean they don't have to make a decision. Eventually they've got to look at the evidence and do the best they can with whatever evidence is placed before them. So yes, a judge would have to decide what a person's going to do with the rest of their life and what they will contribute to their family, yes.

Mr. Toth: — It would seem to me, Mr. Minister, that what we're seeing in society nowadays, some of the rulings that are coming down probably far exceed what anyone would have earned in five or six given lifetimes, let alone one.

I'm not sure if there shouldn't be at least some limitations in place. And certainly no one's trying to put a limitation on what a spouse or children should receive in the event of losing a spouse, especially the loss of, let's say, a father and a husband is traumatic enough, and certainly creates a problem especially if the wife is not employed. And we don't want to limit that.

But as I look at the different settlements that we find coming down time and time again, it seems to me that the insurance that is building up that every one of us as individuals carry, a lot of that is beginning to reflect the fact that there is no rational, responsible, if you will, type of decisions made when allowances are made. And I don't think this Bill sets any limitations on it, but it would seem to me that maybe there should be.

In the whole scheme of things there maybe should be some responsibility laid as to what a person can apply for. And I just think of the recent decision in the States, some 100-and-some million dollars or 90-some

million dollars to that couple because their son was killed, going to court against GMC (General Motors Corporation). And it seems to me that a person, even in their lifetime, if there was even a couple million dollars compensation would have been more than fair.

And I begin to wonder sometimes when we look at compensation if sometimes it isn't somewhat excessive. And certainly there are other people fall on the other side where they probably don't get sufficient and maybe not quite appropriate. And I wonder if there isn't a way of addressing some of that.

Hon. Mr. Shillington: — One mustn't confuse American jurisprudence in this area with Canadian jurisprudence. They're handled very differently. No one, except the American Trial Lawyers Association, is much of a fan of the American system. The American system provides awards, provides it in almost all states. Juries assess the damages and the decision of the jury cannot be appealed, and American juries are among the most generous institutions on earth.

That is not the Canadian system. The Canadian system is that judges make awards. Jury trials are possible, but extremely rare, and it's all appealable. So that one mustn't confuse American jurisprudence and experience, which admittedly has been bad, with Canadian jurisprudence and experience, which I think has been much better.

There is no real, concrete proof that our system is getting out of hand. The awards have increased, but there's been inflation. I can tell the member that officials at SGI are looking at this. But I think most members of the Bar and think many members of the insurance industry would argue that the Canadian system has worked reasonably well. No one accuses the American system of having worked reasonably well. Everyone agrees they've had a very serious problem with personal injury cases south of the border.

Mr. Martens: — Thank you, Mr. Chairman. This is all of some interest to me because my father died in a car accident and so I have an observation to make to you about the fact that a life expectancy or the earning power of the individual are in fact legitimate reasons why you should make a claim of a certain amount. Just used as an example, and that was in 1973, a claim was made for $23,000 and it was paid by SGI. He died on January 13 and on those 13 days in January, earned $13,000. He was 59 years old. And they said over this period of time, he would have earned X amount of dollars and that was $23,000.

And so when you calculate an individual's life expectancy and the terms and conditions that exist as it relates to saying that the benefits will accrue to the volume of dollars that he could have received, then there is a limitation. Why should — and I raise this as a question — why should a brain surgeon have more money paid out of the system than the person who was my father? Brain surgeons . . . And this relates to grief and to the things involved in that. And why should one person's life be of a significant more dollar value than another person's?

(2015)

Hon. Mr. Shillington: — I would admit to the member from Morse that the results in this area can sometimes look capricious, when relatively affluent people are rewarded handsomely and people who have been less fortunate in life are treated in a much shabbier fashion. I admit the result looks capricious. I would only say that this discussion is getting a little outside this Act in the sense that that's determined by common law, not really under this statute.

In any event, the jurisprudence behind this is that the court compensates for actual loss. The family of a high income earner loses more support than a family of a low income earner. Is it socially just? Perhaps not. But the jurisprudence here is, we compensate for actual loss, and we don't attempt any sort of a social policy in the area.

As I say, the results may look a little capricious but that's the law in this and every other jurisdiction, actually.

Mr. Martens: — Mr. Chairman, under (e) it says there: "any other out-of-pocket expenses reasonably incurred as a consequence of the death". Now does that mean the funeral expenses?

Hon. Mr. Shillington: — Funeral expenses are already covered.

I'm informed by the officials that this is intended to cover out-of-pocket expenses. Some of the things which apparently weren't covered because the court found that they weren't . . . the language of the previous statute couldn't bear this interpretation, didn't cover phone calls which might surround a funeral, or travel expenses, might not cover time you had to take off for work because of the death of a member of the family.

So this is intended to cover out-of-pocket expenses other than funeral expenses which actually were already covered.

Mr. Martens: — What about legal costs in probating the will and those items?

Hon. Mr. Shillington: — No. The legislators and the judges have just enough sense not to let the lawyers loose on the insurance fund by sending the insurance companies their bills. A client's got to pay that. Otherwise, otherwise you will truly see these things run quickly into the red.

Mr. Martens: — Well that's basically one of the points that I was going to make from this. Are we coming to the place where this is not going to trigger more legal action against, to have higher settlements in relating to insurance and all of those things? Is this going to contribute or is it going to keep a status quo in your

opinion?

Hon. Mr. Shillington: — It certainly won't affect the number of claims nor will it materially affect the amount. The additional items which are covered here are really secondary and much smaller in nature. The major loss on death has long been covered. These are simply some peripheral items which I don't think will add materially to the cost.

Mr. Toth: — Just one other question. I understand from the Bill, you've extended the time period in which you can make a claim. It's gone from a 12-month to a 2-year, 24-month period. Is that true?

Hon. Mr. Shillington: — That's correct.

Mr. Martens: — What the purpose of that was . . . because of this onus involved in trying to get the information together to lay a claim, is that why . . . the reason it's extended, or what's the reason for that, Mr. Minister?

Hon. Mr. Shillington: — These things . . . There's a bewildering number of limitation periods which can confuse and confound even lawyers who deal with it every day. There's an effort here to try and standardize the limitation periods.

The period is now two years under The Vehicles Act. This is making it the same period of time just so the public, and the lawyers who deal with it, will find the whole matter a little less complex and difficult. So it's standardization of the limitation period.

Clause 1 agreed to.

Clauses 2 to 9 inclusive agreed to.

The committee agreed to report the Bill.

Bill No. 19 — an Act respecting Survivorship

Clause 1

Mr. Toth: — Thank you, Mr. Chairman. Mr. Chairman, and Mr. Minister, I understand from this Act, what you're doing here is recognizing, I guess, The Survivorship Act, if it's, say, two individuals are . . . I guess probably the best example to use is, say, are accident victims. If I determine correctly what you're saying, you're determining that both individuals died at the same time?

Hon. Mr. Shillington: — With this Act, members will want to shed a few tears. A little bit of Roman law will die here. The situation has now been governed by a rule of the Roman law called the *commorientes* law which says that if two people die in circumstances in which it can't be determined who died first, you assume the younger died first.

It produces some very capricious results in automobile accidents when you have a husband and wife who are found dead. Normally the wife is younger. The estates then pass from the husband to the wife, and if there are no children it may pass to the wife's family and is often . . . This is a particular problem with farm families. The son is often the person . . . family from whom the land comes. The son gets a farm from his father, before there's any children they're killed in a car accident. The whole effort goes — because the wife's often younger — the whole effort goes from the husband to the wife to the wife's family, with the husband's family left out in the cold.

It is a bit of Roman law which sounded rational but in fact has been an enormous pain in the neck to the legal system for the last 2,000 years. With this statute in Saskatchewan it will be brought to an end. If we can't determine who died first, the estates are simply divided equally. The whole law is done away with and it'll be much more just, actually.

Mr. Toth: — Just going on your last statement, when you say, divided equally, it just . . . both partners would, I guess, like you say, and just using the example of a farm, that farm would basically be divided down the middle. The wife . . . or wife's family would receive part or the husband's would receive part of that.

If there's family involved, would that whole operation go directly to the . . . Let's say there are two sons or a son and a daughter. Would all the assets on the farm then go to the direct descendants rather than going, say, to the wife and then to her family? Is that how it would follow?

Hon. Mr. Shillington: — Yes, it would go to the direct descendants if there are any. And the staff point out that another major complication which is becoming much more frequent is the blended family and what happens when you have children which are not the children of both. It really becomes a very complicated problem with the blended family and so this brings that whole mess to an end.

Mr. Toth: — Well it would seem, Mr. Minister, that even though we can enact legislation and bring Acts before the Assembly and bring in laws before our nation that it would be very imperative that parents or adults take the time to indeed lay out what their plans . . . or what they would really like to see done in the event of one spouse or both spouses maybe taken from this life prematurely.

And if there's anything that I think possibly should be . . . probably be on the educational side is bringing this forward, because I think to a lot of people, and especially when you're younger, and none of us really want to face the fact that our life isn't . . . we're not guaranteed the three score and ten years as referred to in the biblical pattern. And it would seem that just by relating it or getting some educational aspect out there and letting other people know it, that in spite of all the laws and the rules that we can bring in, it's still not always that easy just to identify and say this is how things will be totally applied that would be satisfactory to everyone.

Maybe you'd like to respond to that.

Hon. Mr. Shillington: — Yes, none of this is any substitute for a will. And the only proper way to handle this is to see your solicitor and have a will drawn up. This applies to that percentage of people who for some reason or other will not do that. I guess Howard Hughes is the best example, who spent all his life accumulating an enormous estate but didn't bother to draw up a will. For some reason or other there's a surprising number of those people. This attempts to deal with those people, but none of this is any substitute for preparing a will.

And you are right, the legal system needs to do as good a job as it can in educating people about the need to prepare wills and to make these decisions themselves. The member is quite right.

Mr. Toth: — Mr. Minister, I also note that you talk of the fact that . . . let's say two individuals pass away but one passes away a few days after, say a major accident, and if I understand correctly, in the same circumstances that they have . . . it's determined that they actually had died at the same time. At least that's what I understand from clause 4(1). If the one individual who's been hospitalized is of fairly sound mental capacity and due to some other complications passes away, I think we'd have a difficulty in saying that they were deemed to have died at the same time. Is there a limitation as to that extended period, or what are we necessarily talking of in this portion of the Bill?

Hon. Mr. Shillington: — This is intended to cover the situation where the injured . . . the one who lives for three days or four and a half days, or whatever, doesn't regain consciousness. If they regain consciousness but their injuries are still fatal, which would be a rare case but I guess it's possible, they could then of course prepare a will and the hospital staff would normally cooperate in getting that done very quickly. This really just applies to the people who never regain consciousness.

Mr. Toth: — Would it be fair to ask roughly how many conditions or how many circumstances that we face in any given year where people really haven't determined and made proper plans for their future, that this Bill would actually affect?

Hon. Mr. Shillington: — It's very rare. The officials were just telling me as you were talking that they asked the Public Trustee if she had any files, actual examples of this, and it turned out she did not. In practising for some 25 years, I handled one such problem in 25 years. So it's extremely rare, extremely rare. We don't have any actual stats, but it's extremely rare that this ever happens.

Mr. Toth: — One other question, Mr. Minister, and this comes back to a comment you made just a few minutes ago especially where say a couple have remarried and there's two sets of families. You've got two individual families. Property in that case would then be split down the middle and would be shared. That's what you're just saying.

Clause 1 agreed to.

Clauses 2 to 12 inclusive agreed to.

The committee agreed to report the Bill.

(2030)

Bill No. 32 — An Act to amend The Family Maintenance Act

Clause 1

Mr. Toth: — Mr. Chairman, and Mr. Minister, what specifically are we talking about when we are talking about The Family Maintenance Act here? Are we getting into parents looking after their own? Are we getting into relationships where there's separation and maintenance agreements that have been raised? I'm wondering what all we're covering under this Act.

Hon. Mr. Shillington: — This applies to responsibility of parents for children, this amendment. There is now . . . the statute now exists, and it states that you have liability; a parent is liable to pay maintenance on behalf of a child when they're under 18. The change here is subtle. The statute now provides you're also responsible when they're over 18 but still dependent by reason of illness and disability. This change adds the phrase "or other cause," so that you're now liable for children who are over 18 who are dependent by reason of illness, disability, or other cause.

Actually what we're doing here is making our provincial statute the same as the federal divorce Act. There has been a subtle difference, but it's an important one. The difference is that under the provincial statute you're not liable for children over 18 who are dependent because they're still in school. Under the federal divorce Act, you are. And this makes the two coterminous, if I can use that phrase, with respect to the circumstances under which you're liable for maintenance on behalf of a child. So that's the change.

There is another change on the next page which was requested by some people. It is a section which provides that my able colleague, the Minister of Social Services, cannot make application on behalf of a child who is a ward of the department. It has never been the policy of the department to make such applications. Someone, however, became concerned that the department might change their mind and we're closing that avenue off by legislation so that the minister cannot make such applications. As I say, it's a change in theory only because no department . . . it's never been the policy of any government to actually do that.

Mr. Toth: — So what you're . . . If I understood you correctly, you mention the fact that even if a person is over 18 years of age, which in normal cases they're almost considered to be coming independent, self-reliant, you're then suggesting the parents are responsible for the maintenance and well-being of that individual. If that individual was able to provide

for themselves, they'd probably be able to apply to, let's say, Social Services for some assistance. What happens here? Are we saying that, because a person isn't quite capable, the parent is responsible? That it's not the responsibility of the state to recognize that person as an independent individual?

Hon. Mr. Shillington: — No. This really governs the right of one parent to support from the other parent for children. That's all it really governs. And it extends the responsibility, usually of the male, to pay maintenance on behalf of children who are still in school but over 18.

That's been covered since 1968 under the federal Divorce Act, but our Act has never changed to cover that. Now you're liable for maintenance for children if they're over 18 and still in school. That's really the substantive change here.

Mr. Toth: — So what you're saying then is, let's say a separation of family and there are two or three children involved and one child is say 18 or 19, the maintenance proceeds past the age of 18 then is what you're saying, as long as that child is getting further education.

How long a period would be involved? Because a person could spend maybe five, six, seven, who knows how many years say pursuing an education or furthering their education.

Hon. Mr. Shillington: — This is in the discretion of the judges. However, in my experience most judges exercise doubts on behalf of the child.

If a child's still in school — and sometimes this can carry on until the mid-20's — if a child's still in school, judges will generally order maintenance paid unless there's good proof that the child's become a professional student and is not benefiting from education and should go to work.

But the courts usually exercise any doubts in favour of the children, and I think that's probably as it should be.

Mr. Toth: — Another thing, Mr. Minister, and I'm not exactly sure if it's dealt with in this piece of legislation, but I guess one of the major complaints that I hear a lot of times in problems that arise from separation and divorces — and a lot of individuals certainly argue for proper maintenance and the proper funds and support — but the other area that arises is accessibility by both parents to I guess appropriate time with the child, to have access. Is that discussed or raised in this piece of legislation at all, identifying the fact that both parents should have equal access?

Or I guess maybe one of the major concerns is sometime, and probably more so raised by the husband or the father, is the fact that they're in most cases paying the maintenance but a lot of times have very little access to the child.

I think it would appear to me that we need to have some sort of maybe guidelines that would allow for a greater fairness on this basis. I wonder if you could just bring that . . . comment on that.

Hon. Mr. Shillington: — That's completely outside the jurisdiction of this Act. This Act deals only with maintenance and not with access. Admittedly they're very difficult problems that courts struggle with, fathers complain about, and lawyers make lots of money out of . . . (inaudible interjection) . . . That describes the whole problem of access, I think.

Mr. Toth: — So what you're saying, Mr. Minister, then this specifically deals with maintenance and the continuation of maintenance as long as it's recognized that the child should be under the support of that parent through a reasonable time and education. That's correct?

Hon. Mr. Shillington: — That's affirmative.

Mr. Martens: — It's been brought to my attention in the last two or three months that we have maintenance, and we put the Bill into place here in the province. And I agreed with it at the time.

However, what happens is different jurisdictions cause different problems with maintenance as I'm finding out. And I'm not a lawyer, but I have had to get these individuals who were not getting maintenance and individuals would move to British Columbia, and it happened on two or three cases where they moved to British Columbia. Court orders had to be given to those people in order to have the court established. And on one of these cases the individual had no job, was being paid unemployment insurance, and therefore the federal court had to be accessed in order to determine the maintenance.

Now two things I think probably that I'd like to have a response from you, Mr. Minister, and that is: one, where does the individual who doesn't know how this process works . . . does the maintenance enforcement office provide counselling to these individuals when they say, my maintenance hasn't come for three months? Where is it? That's one thing I think that needs to be addressed by the counsellors that are there.

And the other thing is the responsibility to some extent of the individual who is paying the maintenance should in fact have some way of being required to tell the maintenance office where he is going. Because what is happening is they're moving from province to province to province. And under the way this thing works, each time they have an additional time when they don't have to pay maintenance, and that is causing a serious concern to many of the people that have contacted me in the last few months.

Hon. Mr. Shillington: — Yes, if the member can stand a compliment from an old adversary, this is something that was greatly improved when your administration was in office during the '80s. I know you won't recover politically from this, but this is something that was greatly improved during the '80s.

The member correctly points out there's a good distance left to go. I didn't know this, but my officials tell me that there is a statute which was passed last week in the House of Commons which will remedy the very problems you refer to, when it's proclaimed and in effect. So I gather some relief, at least, is on hand. We'll see how effective it is when it's proclaimed and in effect.

Mr. Martens: — Would the minister provide just how that would happen. Could he provide some details on that.

Hon. Mr. Shillington: — The bugaboo here has long been that it's relatively easy for the federal government to find people, but not easy for the provincial governments to find people, and the federal government won't provide access to their data banks. This legislation will give the provincial governments who are struggling with maintenance enforcement, access to federal data banks and it will make it much easier to find them. So that, I'm told, is the crux of the new statute.

Mr. Martens: — By these data banks, you're referring to unemployment insurance, pensions, or items that are in that fashion. Are there any others or are those not correct either?

Hon. Mr. Shillington: — The officials think it's probably all of the ones you mentioned, but they're not entirely sure. This has just been passed; it's not entirely clear exactly how the federal government's going to administer it. So we're waiting. Apparently the officials, the department itself, is waiting for further information from the federal government.

Mr. Martens: — One last question. When the Department of Justice gets it, I'd appreciate having an opportunity to get the regulations as it relates to that and have an opportunity then to be able to assess it and advise some of the people that have contacted me about their concern.

Hon. Mr. Shillington: — My ever-helpful officials here have made notes of that and will send it to you when it is received.

Mr. Martens: — They used to, Mr. Minister, follow my instructions as well, so I know them fairly well.

The observation that I would like to make on this too is that the information probably needs to have detail as it relates to, not only the regulations, but which data banks would be involved in there so that I could get these people to contact them.

The other thing that is an observation I'd like to make is, there is a great deal of, what should you say, apprehension when speaking to the maintenance office in relation to . . . the clientele believe that the maintenance office is in fact withholding funds from these individuals. And I have to explain to them in a very considerate kind of a way that these people are, in a general sense, acting on their behalf.

I wonder if there would be a way to find out whether there could be an explanation made to these individuals who are acting on behalf of these clients who are my constituents, that the attitude towards them is not one of conflict. Because they generally, I think, believe that the government is trying to keep this money from them, not understanding the details involved.

(2045)

And here's where some of the problem exists. I've had one individual who has left the province who has had two people ask for maintenance, and consequently, the first individual who contacted me has not been made aware of the details, nor should she be made aware of the details of the other maintenance orders that have been given. However the restriction that they have on confidentiality causes a concern and then their frustration steps in as to how to deal with that problem.

So the clients have to understand that, number one, there is a confidentiality requirement here, and the second thing is that they need to have some confidence that these individuals are acting on their behalf. And I think that there has to be some method of doing that.

Hon. Mr. Shillington: — I am told by the officials that the very issues you raise are actually under consideration now. To what extent and how much time should be spent, in some ways, counselling people and explaining these to them and what the breakdown should be, all I can say to the hon. member is I'm told the matter is under consideration.

Now I'll undertake on behalf of the Minister of Justice to drop you a letter when the matters are resolved or the focus gets a little better and let you know what the outcome of the discussions is, and you can respond probably in his own estimates. Indeed, we'll try and respond before his estimates are brought up so that you can raise this directly with him in his own estimates.

Mr. Martens: — I'd just like to say I appreciate that kind of response because it helps people out and that's really what we're interested in doing.

Mr. D'Autremont: — Thank you, Mr. Chairman. Mr. Minister, a similar type of Bill came forward in the last session where we were dealing with maintenance. And at that time we talked to the minister and to the Justice minister about following maintenance as people moved around and the types of things that could be done. At that time we asked the minister to approach the federal government to better able to track the person who is supposed to be paying, to utilize perhaps the Income Tax Act, to follow where these people were at. Has anything along this line been done?

Hon. Mr. Shillington: — Yes, in fact just in a few moments ago I was explaining to one of your

colleagues that the federal government has in fact passed a statute — it was passed last week — which in fact will give the provincial government access to these data banks. It was just passed last week. We have some informed guesses as to how it's going to operate but no hard information.

We undertook to provide the information to the member from Morse. We will undertake to provide it to the member from Souris-Cannington as well so that you have the information as soon as it's available to us.

Mr. D'Autremont: — Thank you, Mr. Minister. One of the problems that a large number people have in collecting maintenance is the idea of garnisheeing wages from the employer of the other spouse. Is it possible to speed up that process?

I've had a number of phone calls and complaints that the wages had been garnisheed from the person who is supposed to be paying and yet the spouse that is supposed to be receiving the money has never received it. And this may be two, three, and four months later. There seems to be quite a time-lag in there from the time that the person's money is garnisheed to the time that the person is supposed to receive it does actually get the dollars into their hands.

Have you looked at that situation, Mr. Minister?

Hon. Mr. Shillington: — There are problems with the federal government. But apart from problems with the federal government, that should not be occurring. If it's taking a matter of months then you need to raise the individual case with the appropriate authority. That should not be . . . apart from the federal government, which has been problematic, otherwise that should not be occurring. The member may want to send specific details on of the case that he's referring to. That shouldn't be happening.

Mr. D'Autremont: — Mr. Minister, I have brought that up with the minister at the time that it was occurring. And I haven't received a lot of complaints from that person since then, so perhaps it has been resolved.

But it does seem to be a problem of some time-lag there. And a number of times I've received questions of concern from the people about the contacts that the maintenance enforcement officers have been maintaining. There seems to be some personality conflicts or some problems in dealing between the person who is supposed to be receiving the funds and the maintenance enforcement officer. There seems to be a reluctance of the maintenance enforcement officers to actually press forward with the claims against the person who should be paying. Has the minister looked into that?

Hon. Mr. Shillington: — Again, this was . . . we had a brief discussion about this with the member from Morse. This matter is under consideration right now. We're hoping to . . . I am told to expect to resolve the matter shortly. Undertook to reply to the member from Morse and set out the position, the minister's views on it, and will make sure that the member from Souris-Cannington's copy of that letter.

Mr. D'Autremont: — Thank you, Mr. Minister. I know in your statement to the member from Moosomin, you made the statement that access is not part of this legislation. Well, Mr. Minister, I think that some considerations of access should be included in the maintenance. That would be an incentive for that person who is paying the maintenance to continue to do so.

It does on rare occasions become a problem. The person is paying their maintenance, and yet the other spouse is reluctant to allow that person to have access to the children involved. I think there needs to be some more work done in that area to allow better access. If the person is not supporting their maintenance in the proper manner, then I can understand the reluctance of the other spouse to allow access. Now it may not be right, but I can understand their reaction to that.

But if the maintenance is being supplied in the proper manner, then I believe that access should be allowed. And it should actually be part of this or other legislation to allow proper access to the children.

Hon. Mr. Shillington: — Well this is one of those difficult areas of the law, where on one hand the children got to eat, and the theory is they should get their maintenance and not have their maintenance held up because of a squabble between the parents. On the other hand, it's very difficult to convince a parent who doesn't have access that he ought to pay his maintenance when the spouse — usually female — won't give him access to children.

It is an area which has long troubled the law. It's really outside the parameter of this Act. I will ask the officials to appraise their minister of this matter, and could be appropriate for you to raise it with the minister in his estimates. We'll perhaps handle it that way.

Mr. Toth: — Thank you, Mr. Chairman. Mr. Minister, just in listening to some of the questioning my colleagues have raised, it would appear to me then that the significant progress has been made on the interprovincial removal of boundaries regarding the maintenance enforcement and what have you. And the reason I also just stand up just to reiterate that point is some of the concerns that have been raised even in my area where individuals have say been in one province and now come to our province, and some of the difficulties they're facing.

And in fact the one has to do with a situation relating to an individual who just happens to be working for the federal government on a forces base. There seems to be some restrictions or difficulties, or there has been — and I'm not sure I trust that it's been resolved — but there seems to have been some fairly major difficulties in trying to get access and get I guess the proper maintenance, make sure that it's following through.

So I trust that with the federal legislation, this

legislation, that we are removing some of the borders that . . . or the boundaries I guess or the restrictions, the walls that have been built up and made it difficult for families to live as normal and productive a life as possible after a separation.

I thank you and your officials.

Clause 1 agreed to.

Clauses 2 to 10 inclusive agreed to.

The committee agreed to report the Bill.

Some Hon. Members: Hear, hear!

Mr. Toth: — Mr. Chairman, I'd like to thank the minister for his forthrightness and cooperative spirit and endeavours to really work with the opposition in addressing some of our concerns. And certainly thank you to your officials for the time they spent here tonight.

Hon. Mr. Shillington: — I would also like to thank the officials for assisting a minister who is not as familiar with this material as the Minister of Justice might have been.

I also want to thank the members of the opposition. It was a very useful discussion actually.

An Hon. Member: — Official opposition.

Hon. Mr. Shillington: — Yes. I want to make it clear I'm thanking the official opposition for their assistance. I do thank you for the discussions.

THIRD READINGS

Bill No. 7 — An Act respecting Social Workers

Hon. Mr. Shillington: — Mr. Speaker, I move the amendments be now read a first and second time.

Motion agreed to.

Hon. Mr. Shillington: — With leave, Mr. Speaker, I move the Bill be now read a third time.

Motion agreed to, the Bill read a third time and passed under its title.

Bill No. 26 — An Act to repeal The Saskatchewan Computer Utility Corporation Act

Hon. Mr. Shillington: — I move this Bill be now read a third time and passed under its title.

Motion agreed to, the Bill read a third time and passed under its title.

Bill No. 13 — An Act to repeal The Mineral Taxation Act

Hon. Mr. Shillington: — Mr. Speaker, I move this Bill be now read a third time and passed under its title.

Motion agreed to, the Bill read a third time and passed under its title.

Bill No. 14 — An Act to amend the Statute Law

Hon. Mr. Shillington: — I move this Bill be now read a third time and passed under its title.

Motion agreed to, the Bill read a third time and passed under its title.

Bill No. 15 — An Act to amend The Limitation of Actions Act

Hon. Mr. Shillington: — I move this Bill be now read a third time and passed under its title.

Motion agreed to, the Bill read a third time and passed under its title.

(2100)

Bill No. 18 — An Act to amend The Victims of Crime Act

Hon. Mr. Shillington: — I move this Bill be now read a third time and passed under its title.

Motion agreed to, the Bill read a third time and passed under its title.

Bill No. 16 — An Act respecting the Interpretation of Enactments and prescribing Rules Governing Acts

Hon. Mr. Shillington: — I move this Bill be now read a third time and passed under its title.

Motion agreed to, the Bill read a third time and passed under its title.

Bill No. 17 — An Act to amend The Fatal Accidents Act

Hon. Mr. Shillington: — Mr. Speaker, I move this Bill be now read a third time and passed under its title.

Motion agreed to, the Bill read a third time and passed under its title.

Bill No. 19 — An Act respecting Survivorship

Hon. Mr. Shillington: — I move this Bill be now read a third time and passed under its title.

Motion agreed to, the Bill read a third time and passed under its title.

Bill No. 32 — An Act to amend The Family Maintenance Act

Hon. Mr. Shillington: — I move this Bill be now read a third time and passed under its title.

Motion agreed to, the Bill read a third time and passed under its title.

SECOND READINGS

Bill No. 52 — An Act respecting Culture and Recreation

Hon. Mr. Tchorzewski: — Thank you, Mr. Speaker. I am pleased to, on behalf of the minister, say a few comments on behalf of the minister and move second reading of The Culture and Recreation Act, 1993. My comments are going to be very brief and for that I'm sure the members will be eternally grateful.

The members will recall that there was a major reorganization of several departments which took effect at the beginning of this fiscal year. One of those reorganizations caused the combining of the two departments which had been looking after administering affairs responsible for municipal government into one department. And as a result it's necessary to pass some legislation to give authority for certain actions.

The purpose of this particular Act to which I am speaking today is to provide a legislative base for the recreation and cultural activities of the Department of Municipal Government. This new Act is necessary as a result of the proposed repeal of The Renewable Resources, Recreation and Culture Act. And with the repeal of The Renewable Resources, Recreation and Culture Act, there would be no legislative authority for recreation and cultural activities and therefore there is a requirement for this legislation.

Members who've had an opportunity to look at the Bill will have noted that there are no new provisions or no changes from what has been there in the past, and therefore I do not suspect there will be anything of a controversial nature that will be found here.

So, Mr. Speaker, with that brief explanation, I now move second reading of the Bill, The Culture and Recreation Act, 1993.

Mr. Toth: — Mr. Speaker, I will follow the minister's lead and be duly short and move that we adjourn debate.

Debate adjourned.

Bill No. 53 — An Act respecting Natural Resources

Hon. Mr. Wiens: — Mr. Speaker, I'm pleased to move second reading of a new statute entitled The Natural Resources Act to replace The Renewable Resources, Recreation and Culture Act.

The new Act incorporates new resource management philosophies, updates the responsibilities of various resource management funds, strengthens enforcement officers' powers, and increases the levels of fines. Enforcement clauses have been reworded or added to make this new Act consistent with amendments to The Wildlife Act recently introduced.

The Natural Resources Act authorizes officers to inspect commercial premises such as outfitters' and guides' business offices; inspect the documents; search vehicles, boats, and persons; and seize evidence pertaining to violations. It increases the maximum fine from $2,000 to $25,000 to be consistent with the maximum fine under The Wildlife Act. This will significantly deter unlawful activity in the outfitting and guiding industry.

A new section dealing with the statute of limitations allows prosecution to take place up to two years from the date of the violation. Many investigations of illegal outfitting and commercial use of resources require intensive investigation and take up to two years to gather enough evidence to prosecute.

Another major change in the Act is a new clause which enables the department to enter into resource management agreements, partnerships, and joint ventures to facilitate new, sustainable, resource management philosophies. New sections enable the commercial revolving fund, the resource protection and development revolving fund, and the forest renewal and development fund to receive money from third parties so it can be used for the specific resource management activity for which the fund was established.

The key administrative issues in the draft Bill include changing the name to The Natural Resources Act, adding and amending definitions, and creating new sections dealing with the daily administrative functions of the department.

Mr. Speaker, I now move second reading of The Natural Resources Act and urge all legislative members to support this new statute. Thank you.

Mr. Toth: — Thank you, Mr. Speaker. Mr. Speaker, I believe my colleagues certainly would like to have some time to review this Bill and take into consideration some of the comments made by the minister in bringing forward his second reading.

The name change I don't think is anything that any member is really all that concerned about. When we start talking about enforcement procedures and added enforcement by resource officers across the province, I think there are a number of areas that we want to raise some questions with the minister and with the department to in fact make certain that the added powers given to the resource officers are somewhat, I guess, controlled, are being limited, that we're not giving them extraordinary powers far and above the duties and the responsibilities they have.

The minister also talked about the ability to raise some fees to cover some of the costs or to cover the costs of the Natural Resources in following up and it seems to me that some of the communities already . . . I'm not exactly sure but we have certainly seen or I've heard of the major fee increases in the department that have come into effect, and I think that people will be raising some of these issues with us.

And in order to allow for greater research and the ability to indeed look at the overall aspects of the Bill

before us, I move that we adjourn debate.

Debate adjourned.

Bill No. 55 — An Act to amend The Workers' Compensation Act, 1979

Hon. Mr. Shillington: — Thank you very much. I'm going to in a moment — and I won't go on too long here — I'm going to take a moment to explain, I think in general terms, what we're doing with this legislation. There's been an enormous amount of confusion about it. And then I'm going to go through some of the more detailed changes. But I want to try to explain what we are doing with The Workers' Compensation Act because there's been a lot of misunderstanding.

Prior to 1978 The Workers' Compensation Act worked like SGI. In SGI, you're in an accident, hit by a drunk driver, get a broken knee, SGI gives you 10,000 bucks and it's goodbye, it's good luck, and they never expect to see you again. That's how SGI . . . that's how the workers' compensation worked. It was a compensation scheme.

After 1978 the system was changed. Although we still call it The Workers' Compensation Act, in fact it really was changed and became a rehabilitation scheme. Workers did not receive a pension for the rest of their life if they had a permanent injury. What they did thereafter is they rehabilitated people.

Let us a suppose a steelworker, or a nurse might be another example, has got a bad back, can no longer lift. You might take the steel worker and turn them into a television repair person. And once the training was complete and they could repair televisions, then the compensation came to an end. No longer did they get compensation for life.

What happened during the '80s was that rehabilitation was taken out of the system, and was neither fish nor fowl. It was neither the old compensation system nor the new rehabilitation system. What these amendments do, the main thrust of these amendments, is that we are going back, turning The Workers' Compensation Act back to a rehabilitation scheme.

We might have changed . . . there's a certain value in leaving the name alone. Everybody knows what it is, everybody . . . it's familiar and it's easy to use. But a more descriptive term might have been the injured workers' rehabilitation Act. I once toyed with the notion of actually changing the name and then decided not to.

That, Mr. Speaker, is the main change. There's been a lot of discussion about deeming and where deeming is at. I can tell members that deeming remains; the power to deem will remain. It will have a very different effect because they'll be rehabilitated first instead of simply being cut off and set adrift. The deeming itself will not be changed. What'll be changed is they'll be rehabilitated before they're deemed. It's really a very important change and it's been misunderstood almost since the work began on this last summer.

I had intended, when I gave my second-reading speech, to table the Price Waterhouse report which was the subject of discussion today between myself and the member from Kindersley in question period, and I'd also intended to table the report of Judge Muir. He has given us an interim report which members won't have access to. I got it only a few days ago. It deals with the treatment that should be accorded to past claims which may or may not have been fairly dealt with.

We asked Judge Muir for an update on his report; he gave it to us. I intended to table it when I was giving the second-reading speech. In fact I don't have it with me. My staff were a little unprepared for this and weren't quite expecting it today.

I will however, Mr. Speaker, table that tomorrow immediately after routine proceedings. I will table the Price Waterhouse report and make as many copies available as members want, and I will table Judge Muir's report. It's just a single letter to me setting out what ought to happen with past claims. It's an essential part, I think, however, of understanding this whole Bill.

Mr. Speaker, in more specific terms, some of the changes to the legislation are that the legislation will specify the duties of the board for fair treatment of claimants and for providing medical aid. It will specify the duties of workers to take all reasonable action to limit the loss of earnings, to work with the board in developing vocational rehabilitation programs, clarify provisions requiring the board to pay compensation if a workplace injury materially aggravates, accelerates or combines with a pre-existing condition.

It will improve benefits for dependants of workers who are killed or seriously injured, will enable the board to take employment tax credits such as northern tax credit into account in the calculation of probable income tax payable, will increase maximum fines from 500 to $1,000, limit the liability of contractors for assessment of subcontractors, will permit the reduction or increase of assessments of employers on the . . . based on occupational health and safety practices.

That last sentence needs to be treated with care, actually. These comments, I think, were drafted, but I want to tell members opposite, we've been very careful with this. The business community was very concerned about the use of information we got from occupational health and safety officers in setting assessments. And in fact, what I've said to the businesses is basically your call. You people are paying the money. You're paying into the fund. You don't like it. I don't think the workers are uptight about this. This is your call. And so the Act which we tabled and which we're giving second reading to materially differs from what I had earlier told the business

community we're likely to do.

This comment that I just made needs to be treated with care, because the use that'll be made of information received from occupational health and safety officers, the information will not be used to set assessments. It's available to the board for any other purpose but not for setting assessments. So I want to point out that one needs to treat that area with care because it was something the business community were very concerned about.

This is something also the business community has been concerned about. And we're going to improve the accountability of the board in a variety of ways. And the board has long been . . . Muir described this problem and it has become a problem with the board which has . . . just needs to be addressed, should be laid at nobody's door in particular.

The board has long had sort of a judicial independence with individual claims and thus nobody, including the minister, should be able to go to the board and say, you know Smith's been a good supporter and I wouldn't mind if you'd just speed up his claim and give him an extra break. The board should be independent and is independent and will remain independent with respect to handling of individual claims.

But where it respects general policy, the accountability for money they spend for administration, for staff, all business groups have told me that the board needs to be more accountable. They're spending their money. And I've assured the board that those mechanisms are going to be put in place. And I hope before this session adjourns to be making some more announcements to the House with respect to improving the accountability of the board to this Assembly for matters other than the handling of individual claims.

With those comments, Mr. Speaker, I can imagine the opposition, not having had the Price Waterhouse report as I promised and not having had Muir's interim report as I promised, I would expect they may want to adjourn this and that's fine.

With that, Mr. Speaker, I'll move second reading of the amendments to The Worker's Compensation Act.

Mr. Toth: — Thank you, Mr. Speaker. Mr. Speaker, at first glance and how cooperative the minister had been all evening, we were almost prepared to move this into committee. But after listening to the minister for a few minutes I thought maybe it'd be more appropriate that we actually take a little more time to review some of the concerns that were raised.

And I want to thank the Minister for assuring us that he will pass over, or send over, as soon as he has them available, copies of the reports by Judge Muir and Price Waterhouse. And as well, Mr. Speaker, we have had a few other organizations and individuals raise some concerns with us and would like . . . and we're, based on whether there's any further issues raised at the present time, we're going to call for adjournment of debate.

Debate adjourned.

Bill No. 56 — An Act respecting Occupational Health and Safety

Hon. Mr. Shillington: — Once again I'm not going to take an enormously long time on this. This is a companion Bill to The Workers' Compensation Act. Occupational health and safety is preventative in nature. If it worked perfectly, we wouldn't need a workers' compensation scheme. But of course nothing works perfectly.

The occupational health and safety scheme was pioneered by this province in the early '70s and was actually quite successful in driving down the accident rate.

I have spoken to well-attended meetings of business people and well-attended meetings of workers in every city in the province in the last month with respect to these two Bills. The basic message . . . And it's an interesting phenomena because you speak to the business people . . . The best time to meet with the business people is breakfast meetings at 7:30; that's your best time. You get more out in the morning than you will at any other time. The workers you speak to at night. You will go to the union hall at 7:30 at night. You go to the hotel for the breakfast for the chamber of commerce at 7:30 in the morning.

Notwithstanding the fact that these groups spend the whole day with each other, they never talk to each other, and you could, if you wanted, give an entirely different speech. You could say one thing in the morning and one thing in the evening and I suspect they'd never know.

In fact I have made the same speech, I have made the same speech morning and night. The speech to them both is as follows. The speech to them both is that what the folks in the morning want, when you ask them what labour legislation accomplished, they say it should promote economic development, more successful businesses, a better and stronger economy. That's what they say.

You go to the union hall in the evening; you say, what should this do? Well you know what we want is more jobs. They're saying the same thing; it's just different language. But they want exactly the same thing.

I've made this point to both groups, that the goal of labour legislation should be to promote partnerships. It should be to set a framework within which management and employees can resolve their own problems without the intervention of a department. What I have urged upon everyone is partnerships — partnerships between management and labour so that, in essence, we are not involved, and they resolve their own problems.

It's nowhere better illustrated than in The

Occupational Health and Safety Act this commonality of interest. What workers want . . . There are no doubt, Mr. Speaker, some workers who would just as soon not go back to work, who'd just as soon sit at home. Those however are the exceptions. Most workers want to go back to work; it's a matter of pride, if nothing else. It's also a matter of income, but it's also a matter of pride. We are what we work at; it's how we define ourselves. And few want to define yourself as good for nothing.

Most workers want to go back to work, and they don't want to be injured. What do employers want? Almost . . . most of them care about the employees; they don't want them injured. But they also want to keep the costs down. That is done by preventing accidents in both cases. Here, as in so many cases, workers and the employers have the same interest, if they'd only recognize it. They have the same interest in making this work. My discussions with the business people and the working people throughout this province all during the month of April when I met was this very message; you've got the same interest; I think this Bill promotes it.

What does the Bill do? It sets up a committee in the workplace where management and employees sit down together to try to prevent problems. Workers will know where the safety problems are. It's a guard which is not on a moving chain, or it's a floor which is perpetually got oil on it and is therefore slippery. The workers know this. The management, being the sort of the organizers, will know who to resolve it, how to ensure that this guard is always on that chain or how to ensure that the oil is wiped of the floor quickly so nobody falls on it.

This legislation sets up a committee within which management and employees can meet and prevent problems. They both have an interest in that.

It extends the traditional area a little further, some areas which are very important but have not received much comment. It extends it into the area of toxic chemicals and so on which have become far more of a problem now than they were 20 years ago when this Act was last revised.

It includes one area which is highly topical, and that is the area of harassment. It's very interesting, Mr. Speaker, when you speak to groups of people about harassment. Men and women react very differently. As I start to make the argument in favour of including harassment, women's heads start to nod very slowly. Men's heads start to shake very slowly. It's unconscious movement. But women and men divide up on this thing pretty much by gender. And since most employers, most of the 7:30 a.m. crowd are men, and many of the 7:30 p.m. crowd are women, you get a different reaction on this one. I've little difficulty persuading workers that harassment ought to be included. I have a little more trouble with the morning crowd.

My argument — and I'll make it to members opposite for you to weigh and respond — my argument is that the polls done by reputable polling firms, not by us, suggest this is a very widespread problem. I don't have my notes with me but I believe it was 40 per cent of women in the workforce complained of harassment which affected their health. The existing mechanism for resolving that is the Human Rights Commission. Only an extremely tiny fraction of those people ever get to the Human Rights Commission. Why? Because it is very difficult to go back to work after you've laid a complaint. You can't be dismissed — that's the law — but the atmosphere often makes it very difficult. So not many complain because not many can afford to lose their job.

Obviously workers have an interest in seeing this resolved in the privacy of the workplace at the committee. They can say to their representative on the committee: you know Smith, who's the foreman, doesn't seem to realize that the year is 1993 and not 1933; somebody ought to go have a talk to him about how he relates to the female employees in this plant. And it could be handled, and it could be handled decently and the problems resolved without anyone getting fired and out of the glare of publicity.

I say to the 7:30 a.m. crowd, the employers in the morning, how do you want to handle this? Do you want to handle it as the Dairy Producers did — if I may just to use an example — in the full glare of public publicity before the Human Rights Commission? Or do you want to handle it in the privacy of the shop or the plant or the office, depending on who the employer is?

Surely you want to . . . you people do not want your supervisors, your management people, behaving in this fashion; I know you don't. Surely you want to resolve these problems in the privacy of the committee. And thus I argue again, there's a commonality of interest. Workers and management have the same interests. They both want the business to succeed. Again you've got the same interests. It's a partnership. That's what this attempts to provide.

I'm going to, Mr. Speaker, before I conclude, give a . . . there's one other thing I want to mention as well. It gave the employers some cause for concern, and we tried to focus the language here.

But at the end of the day, this was an interesting commentary on how this legislature works. This Bill, almost as it was, was tabled last spring. It was available to everybody. There was no comment upon it. I then took and I gave . . . and we circulated it again. There was no comment on it, and there was never any interest in it. But there was a lot of interest in the workers' compensation scheme for the reasons mentioned by the member from Kindersley, and that is a concern that the assessments would go through the ceiling. Again they misunderstood what we were doing.

I told the business community, who were concerned about this, you don't get to veto this. There's only 66 people get to veto a Bill, and they have a membership in this Chamber. But I think you do have a right to

know what it's going to cost you, and I'll give it you before I introduce it in the House.

In keeping that commitment, it became necessary to give them something which looked very light, the draft Bill. I didn't give them a draft Bill because that violates our convention of legislature, but I gave then a very complete description of it — the sort of the second-from-last draft, if you want to put it that way.

I decided at the same time to give them The Occupational Health and Safety Act. For the first time, they read it. What happened, they were very concerned about the language, sweeping powers of officials. In fact I told them that the sweeping powers have always been there; they were in the old Act. That doesn't change. They were in the Act that was tabled last year.

What has changed is finally someone beyond the officials has read the legislation which this place passes. And I said that somewhat facetiously; we have gone a long way towards — typing up the legislation — towards ensuring that the officials' powers are no broader than they need to be. And we've put in place quite an extensive appeal mechanism to ensure that if there are officious officials — if you'll pardon the alliteration — in that, there's a right of appeal to independent tribunal, independent of a department, and that there is a right of appeal to a court to ensure that everybody's . . . that the whole thing works in a fair-minded fashion.

So we've tried to deal with it. And I think it's a legitimate complaint. I think it's also an interesting commentary on legislation and how few people actually sit down and read a Bill from end to end.

With that, I would just make some commentary, Mr. Speaker, on the more specific provisions. The new provisions in this Act phase in a requirement that certain employers, starting with larger firms in high-risk industries, develop and implement an occupational health and safety program.

New provisions in this Act provide for the establishment of occupational health committees or the designation of worker representatives in certain workplaces where occupational health committees are not now required; encourage worker participation by enhancing access to health and safety information; promote employer-worker consultations and extend the worker's protection against discriminatory action; clarify the occupational health officer's power to stop work where a violation of the Act involves a serious risk to the health and safety of a worker; establish four categories of offences with a new range of penalties to better reflect the serious consequences of non-compliance; extend the right to appeal decisions of a director of the occupational health and safety officer to an adjudicator appointed pursuant to the Act — we discussed that a moment ago; impose conditions to be met before unusually dangerous work refused by a worker can be reassigned to another worker; allow the occupational health and safety council to give advice to the minister concerning unique health and safety concerns of farmers and farm workers.

(2130)

I'd knot that into the whole area of farm workers. I just say, Mr. Speaker, that if the accident record of the agricultural industry were the accident record of any other industry, it would be an international scandal. The accident record in agriculture is extremely high and it is much higher than it needs to be.

I say to members opposite, how many farms do you think you can go into with every one of the covers on the live power take-offs and all those things? Most of them, I think if you . . . if there was actually a law passed that you had to have them on, most of them would have to go find them. The accident record of farms is extremely high. Farmers are paying a very heavy price because society is neglecting the problem.

Having said that, nobody picked any wanted assistance out of Department of Labour in resolving the problem, and we've largely set it aside. There is a farm safety council but it's an advisory only, and we will not be passing occupational health and safety regulations that apply to farmers.

With that, Mr. Speaker, I will move this Bill be given second reading.

Mr. Toth: — Thank you, Mr. Speaker. Mr. Speaker, the minister raised a number of observations as he was kind of giving us a run-down of what the Bill is actually going to do and the objectives of the Bill.

I would like to add that it's certainly important that groups work together rather than always pull against each other. And one of the areas that we certainly would be asking and seeking reassurances from the government is that they've taken the time to converse with all the interested parties out there. And the minister's indicated that he's been at 7:30 meetings in the morning and 7:30 meetings in the evenings, and kind of met both groups. And maybe he could have met them together in the same room. It might have helped to facilitate some of the process. But he's indicating by shaking his head that that's not always possible.

The minister also talked about the safety record in the farm community. And I think a lot of times certainly some of the accidental factors that arise can arise due to maybe possibly faulty equipment or people not specifically maintaining protective shields on their equipment. But a lot of the accidents that tend to take place — and even on the roads, Mr. Speaker — a lot of times are due to human error, not necessarily equipment.

And some of the process and problems could be resolved by just encouraging people to be a little more careful, take a little more time. I think when it comes to the farm the stress level that is on the farm right now — with the difficulties they find in trying to finance

their operations and looking forward to trying to make decisions as to how they maintain their operation, and then as you get into the heavy seasons, the spring seed season and the fall season of harvest, many times just the rush at the time, under stress and duress — may leave individuals in the position where they don't give adequate thought to what they're doing.

And that's probably one of the major reasons for accidents. Certainly, Mr. Speaker, I think it's appropriate that we review the legislation. And I guess our major concern is the fact that everyone is involved. And those are some of the areas that we will be following up with as we further peruse the Bill. And therefore at this time I move adjournment of debate.

Debate adjourned.

Bill No. 54 — An Act respecting the Department of Economic Development

Hon. Mr. Shillington: — Thank you very much, Mr. Speaker. The minister was kind enough to provide me with his comments and I will read them for the benefit of members opposite.

Mr. Speaker, we are pleased today to present to this House for second reading, The Department of Economic Development Act, 1993. Revitalizing our economy affects, and will be affected by, literally everyone in this province. There are no bystanders. Even those who choose to merely sit on the sidelines and complain will have an effect although it may well be a negative effect.

Individuals and interest groups often tend to take a single-issue approach to economic development, Mr. Speaker, but a narrow approach won't do in today's global market-place.

Mr. Speaker, after province-wide consultation, the Minister of Economic Development announced *Partnership for Renewal*. It's an economic blueprint not necessarily designed for any quick fixes but designed to take this province into the 21st century and develop a strong economy in so doing.

It was designed in a partnership process between government and stakeholders from all walks of life. The strategy has received support on an unprecedented basis. The member from Moosomin urged me to meet business and labour in the same room. Actually it is my goal as Minister of Labour to get to the point where I can meet them both in the same room at the same time, but I cannot accomplish that right now.

With respect to this paper, however, it did receive support from both business and labour. The strategy, which outlines 31 initiatives, will also depend on partnership to be successful. The strategy aims to provide and create a positive business climate, to secure and build on our strengths, and seek full employment.

The Provincial Action Committee on the Economy, PACE, announced December 2, 1992, and targeted in the *Partnership for Renewal* strategy was established to advise and assist the Minister of Economic and Development and the Government of Saskatchewan in implementing a long-term economic strategy for the province based on effective, cooperative partnerships among business, labour, government, the public, private organizations, and communities.

Twenty-four members were chosen from key opportunity sectors and for their extensive backgrounds and demonstrated commitment to Saskatchewan. The members receive no pay. Secretary support is provided from existing resources within the Department of Economic Development. The provincial action committee has made an important contribution to the budget process. Now we have introduced a plan to eliminate the deficit and reduce the province's crippling debt load, actions that are fundamental to taking control of our economic development.

Mr. Speaker, the public-spirited volunteers on PACE have provided invaluable advice on the three R's of adapting to competition. The three R's are restructure, refocus, and re-engineer. Securing our future will not be accomplished through tinkering and band-aid solutions, but through a fundamental restructuring, refocusing, and re-engineering of all sectors of the economy.

Communities, government, business, and labour must all be partners in this restructuring. Mr. Speaker, it says very clearly in the budget speech, jobs will be our first priority. With the restructuring of government and the fiscal plan in place, we must focus all of our efforts on economic development and job creation.

We can already point to a considerable record of accomplishments in this area. Mr. Speaker, you may recall that last year this government introduced legislation to strengthen the community bonds program, the labour-sponsored venture capital program, an Act which I may say is back again this year.

During the past year amendments to The Saskoil Act were enacted to broaden the corporation's investment base and create jobs. The new energy and conservation development authority was formed to provide active economic development evaluating all energy options available to the province to assist the business opportunities associated with each.

A major highlight of the past year was the tremendous success of the first-ever Saskatchewan savings bonds. This popular initiative will continue to give us a means of keeping our own capital working here for us at home. Mr. Speaker, we rolled up our sleeves and worked with the aboriginal people of Saskatchewan to come up with landmark agreements for the co-management of natural resources and land settlements.

This government applied for membership in the international registration plan to help promote

Saskatchewan's economic development by reducing the cost of doing business both in Canada and the U.S. (United States) for Saskatchewan and non-resident truckers. We made a commitment to analyse all the deals initiated by the former government ensuring accountability and the best value for Saskatchewan taxpayers.

To date, renegotiated projects include the Atomic Energy of Canada Ltd., Crown Life Insurance building, Bi-Provincial upgrader and Weyerhaeuser Canada agreement. The most recent was the renegotiation of the Canadian Western agreement successfully concluded in February.

Sears announced plans to locate its western Canada call centre to Regina with a total employment of 900 expected by 1995. A $20 million agreement between Atomic Energy of Canada Ltd. and the province was announced December 21 bringing 140 high-quality research and development jobs. The government-wide policy has been created to actively source Saskatchewan firms in procurement opportunities, Mr. Speaker. The first report on the McArthur River underground exploration was positive for uranium development and the province has given approval to this $35 million project.

To give the business and public a better opportunity to address issues of economic impact and fairness and equity in new regulation and regulations, Saskatchewan has recently approved and implemented a new regulatory system. It will include a regulatory code of conduct with procedures and criteria for developing and changing policies, regulations, and legislation that have an impact on our economy. The code will be applied to all legislation planned for the fall session and for all regulations commencing April 1.

I may say, Mr. Speaker, that this has been warmly welcomed by everyone, and on those rare occasions when we have fallen short of the regulatory code of conduct, the community out there, both business and labour, have been very quick to bring that shortcoming to our attention. They appreciate it and they are very vigilant in wanting us to follow it.

Mr. Speaker, the new Department of Economic Development has been restructured and refocused and re-engineered to manage the provincial economic strategy *Partnership for Renewal*. The three R's . . . Mr. Speaker, it's time to get back to the fundamentals of economic development. Currently the Department of Economic Development is responsible for legislation under 11 different Acts. This is a result of repetitive reorganization of economic development portfolios without corresponding legislative changes. Legislative authority for departmental activities is widely dispersed.

I talked, Mr. Speaker, to one official who'd been there 15 years and had seen the department reorganized 11 times. That has produced a rather . . . a department which has grown like Topsy. It's imperative and appropriate that a Department of Economic Development Act be established to clearly identify the government's role, its responsibilities in economic development, and to provide a proper and comprehensible legislative framework.

Consolidating the authorities of the minister into a new Act is the overall major change. It improves both the focus and the accountability of the efforts. Mr. Speaker, with the repeal of the industry and commerce Act, all incentives in support of development will need regulations for cabinet approval.

Mr. Speaker, there are a number of changes. There are generic changes from The Government Organization Act. I draw members' attention to sections 8 and 9, establishing the department and authorities. Section 10 expands the authority to establish agreements with the Government of Canada and other governments. Section 13 allows the economic trade and development to provide services to those needing support for economic development.

Existing legislation will be repealed — members can read this for themselves in the Act — the Department of Science and Technology, industry and commerce Act, The Trade and Investment Act, the industrial incentives Act. Mr. Speaker, with that we'll look forward to questions with comments which members might have, questions in Committee of the Whole. I now, Mr. Speaker, move second reading of The Department of Economic Development Act, 1993.

Some Hon. Members: Hear, hear!

(2145)

Mr. Toth: — Thank you, Mr. Speaker. Mr. Speaker, having listened to the minister for the last 10 minutes, it took him a fair while to present his economic report to this Assembly and I would think it would be appropriate for us to take the time to really peruse the Bill. Therefore I move the adjournment of debate.

Debate adjourned.

Bill No. 35 — An Act to amend The Certified Nursing Assistants Act

Hon. Mr. Calvert: — Thank you very much, Mr. Speaker. Mr. Speaker, in terms of the second-reading remarks, this Act essentially involves changing the name of the health professionals now known as certified nursing assistants to licensed practical nurses. We believe this change will better reflect their present role in the health system and be more consistent with other provinces.

Mr. Speaker, at present British Columbia, Alberta, and Manitoba refer to these professionals, in legislation, as licensed practical nurses or LPNs. In Ontario, terms registered practical nurse, RPN, and practical nurse, PN, are used to refer to this profession. However, here in Saskatchewan we have also registered psychiatric nurses who use the initials RPN, which Ontario does

not, and therefore in our context the RPN acronym cannot be used. Provincial nursing assistant associations in the Maritimes are also pursuing the LPN designation.

So, Mr. Speaker, this Act which is before us will simply delete the reference to certified nursing assistant and replace the term with licensed practical nurse.

To ensure protection of the public and a gradual change to the LPN title by both public and employers, protection of the title certified nursing assistant and nursing assistant will continue. This means that these professionals will be able to call themselves either an LPN or CNA (certified nursing assistant) for a period of three years after the proclamation of this Act. And this will allow the time for employers to change titles in their workplace, such as in job descriptions and so on. After the three-year period, members will or should only refer to themselves then as LPNs, licensed practical nurses.

However, in the interim, Mr. Speaker, to ensure that another group or individual does not take on the CNA (certified nursing assistant) title and therefore create confusion in our health system, the CNA title will be restricted to prevent others from referring to it.

The Act, Mr. Speaker, is consistent with provisions in The Registered Nurses Act. LPNs, licensed practical nurses, would continue to work under the direction of registered nurses, registered psychiatric nurses, or physicians. The Act will therefore not have any impact on service to the public.

The Saskatchewan Association of Certified Nursing Assistants and the Canadian association of licensed practical nurses and nursing assistants are fully supportive of these amendments. The Saskatchewan Registered Nurses' Association, the Saskatchewan Psychiatric Nurses' Association, and the College of Physicians and Surgeons have also been consulted on the title change and do not oppose it.

There is, Mr. Speaker, one other very minor change within the Act. It specifies a term for the public representative appointed to the association's council by the minister. The standard term of two years was omitted in the original Act.

And finally, Mr. Speaker, I'm pleased to note that the Saskatchewan Association of Certified Nursing Assistants has now prepared a plan to ensure that the public, its own members, and health employers, are advised of the name change.

Mr. Speaker, I believe this public awareness program will be of assistance in facilitating this change in the title. Therefore, Mr. Speaker, I'm very pleased to move second reading of The Certified Nursing Assistants Amendment Act, 1993.

Mr. Toth: — Mr. Speaker, I move adjournment of debate on this Bill.

Debate adjourned.

Bill No. 36 — An Act to amend The Registered Nurses Act, 1988

Hon. Mr. Calvert: — Mr. Speaker, I am pleased, very pleased, to be bringing these short remarks to this The Registered Nurses Amendment Act, 1993 second reading.

Mr. Speaker, the purpose of this Act is simply to allow registered nurses and the Saskatchewan Registered Nurses' Association, the SRNA, to appeal Court of Queen's Bench decisions on disciplinary matters to the Court of Appeal on a point of law. This appeal mechanism is common in several of our professional statutes and is not at all considered to be controversial.

Mr. Speaker, the SRNA, the registered nurses' association, is responsible for investigating public complaints against nurses for misconduct or incompetence. To ensure fair treatment, the current Act allows a nurse who has been disciplined by the SRNA's disciplinary committee to appeal that decision to the Court of Queen's Bench. This is relatively standard provisions in professional legislation.

However, if the nurse or the SRNA believe there was an error in law made by the Court of Queen's Bench judge, there is now currently no further avenue of appeal. Some of our professional statutes in the province, such as that governing physicians, contain a specific clause allowing for appeals to the Court of Appeal on points of law. While this type of clause is not used very frequently, it does provide a further avenue of appeal for the professional and the professional association.

The other amendment, Mr. Speaker, contained in this Act is minor and is intended simply to correct an error in the current Act. The council was indirectly identified as the body that makes the decision on discipline matters. The term "council" by this amendment will be changed to discipline committee.

Mr. Speaker, the Saskatchewan Registered Nurses' Association and its membership are fully supportive of these two minor changes, and we believe there are no public implications to this change. And therefore, Mr. Speaker, I am pleased to move second reading of The Registered Nurses Amendment Act, 1993.

Mr. Toth: — Thank you, Mr. Speaker. Mr. Speaker, I won't take a lot of time tonight as well to speak to the Bill before us, but I know there has been a fair bit of discussion that has taken place over the past number of years regarding the Act. And once we've perused it, we'll get into a more in-depth study and review. And therefore at this time, I'll move adjournment of debate.

Debate adjourned.

The Assembly adjourned at 9:53 p.m.