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# DEBATES and PROCEEDINGS

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### **Bill No. 128 – *The Saskatchewan Employment Amendment Act***

**Mr. Forbes:** Thank you, Mr. Speaker. I rise today to enter into the debate on Bill No. 128, *An Act to amend The Saskatchewan Employment Act and to repeal The Public Service Essential Services Act*. And this is quite a bill before us. It has quite a history connected with this government in so many different ways. And of course it really does talk about how ineffective . . . how a government can go about in so many wrong ways to build strong, good legislation to serve the people of Saskatchewan.

And if there was ever to be a case study when this gets finished . . . Who knows when it will get finished actually because as we understand it will go to the Supreme Court. It's going to be heard in the Supreme Court in just a short while, and that means the story is not over yet. And here we are, seven years, seven years in on something that I think is critically important but could have been handled in so many different ways.

And there were so many opportunities to do the right thing, to say, how can we step back from our ideology that we know and I think we can all say was wrong-headed when it comes to protecting people, making sure they have the services they need but at the same time protecting the right of people to fair and collective bargaining? There's got to be a way of balancing that out. And we're talking about balance, aren't we, Mr. Speaker? And clearly this was a case of that being thrown out the window.

So it's been seven years and we are not finished it. We are not resolved it. And while we may finish this chapter, you know, the second reading today, it doesn't mean at all that it's finished, which is unfortunate because I think in Saskatchewan, we have a long, long history of people serving, working men and women serving people and their families through all sorts of extraordinary situations to make sure people are safe, that they're healthy. And somehow this went all wrong.

And so today we are here to debate this Act to amend *The Saskatchewan Employment Act* and to repeal the public services essential services Act. And I need to say that of course

there's a couple of parts to it. Of course the one that we often refer to right off the bat is, we call it the essential services legislation. But there's some other parts to it too because we have to deal with amendments regarding minimum wage and that type of thing and minimum age.

And of course what we'll see in this omnibus legislation that's become known as *The Saskatchewan Employment Act* formally . . . When it was in the House being debated, it was Bill 85. But now it's a piece of legislation, a piece of legislation that was passed just about a year ago but yet to be enforced because there are no regulations.

So we're still using the old legislation. We're using the old labour standards. We're using the old occupational health and safety. We're using the old trade union Act because of the rush, the rush to get this done and the cavalier attitude of the government to say, well why don't we just get it done, and then it'll be done?

And then people are . . . But people then say, so what is the legislation that we're following? Is it labour standards or is it employment standards? What's the definition of employee? All of those kind of questions. And where do I take my concerns to? Is it the Labour Relations Board? They will be the people you take the concerns to when you have employment standards infraction, but if you've got a labour relations thing, then you go there. Labour standards thing, where do you go with that? Well you go to the ministry. So it's just really quite, quite confusing. And so we have a lot to say about this, and we'll have a lot to say in committee about this.

But I do want to talk a bit about the seven long years, that how this winding road . . . And it's not nearly over yet as we await what the Supreme Court says. What will happen in committee? And of course there will be some requests for amendments. And last year, Mr. Speaker, as you will remember, there were several last-minute amendments. And I'll talk about some of those in just a minute.

But I think that first we need to review this long and sordid story about essential services and the Sask Party government that started out with Bill 5. And it was introduced on December 19th, 2007. And clearly at that point, people were taken aback because there were no signs that this government was going to be doing something as extreme as Bill 5 and 6. They were coupled together. And people were not prepared, and we had quite a lot of unrest in that year of 2008 as the government rammed this through.

And of course I remember clearly when the International Labour Organization, ILO, ruled on it, saying there were major problems with the legislation, major problems with the legislation. Of course the minister at the time just said it wasn't the ILO's best day when they ruled accordingly. But then we had, just following that, Judge Ball's ruling.

And the whole issue really became around consultation and dispute resolution among other things, but those were the two big things, and just the way the government really acted in a way that was not respectful of the role of labour in a modern economy, especially in an economy such as Saskatchewan's because in so many ways it was the working men and women who built this province and were there. And if you're looking

for a middle-class economy both to provide the services, to provide the necessary labour to make things work, it just wasn't a respectful, a meaningful way to engage those people who were so important to our economy.

And now of course then the government of the day then decided that it would appeal Judge Ball's ruling. And of course then we were off to the Supreme Court, and that's where we're waiting upon right now. And we'll wait and see what the arguments are and what the outcomes are in terms of essentially the right to strike and what are the parameters around that.

In the meantime the government decided that they would introduce Bill 85, *The Saskatchewan Employment Act*. They said, well if we're going to rewrite the essential services legislation . . . Because they're going to have to do that. They're going to have to redo Bill 5. They might as well make a bigger envelope for it. And they wanted to create this omnibus piece of legislation, the employment Act, and of course here we are. And it's still struggling to make it work as we await the regulations.

And we are curious about what are the implications of this legislation as people will, you know . . . Mr. Speaker, we often see the situation where people are kind of forewarned that changes are afoot because, you know, there's been debates in the legislature. There will be notices. There will be different things. People are aware that we're talking about these issues in the House. But here we already have a case of an amendment to Bill 85, the employment Act, and that Bill 85 has not been enacted. And so we're kind of in limbo here where we're amending things that aren't even in force. And we have before us the essential services component which may be impacted by, in just a few months, a ruling from the Supreme Court of Canada.

And of course there was an opportunity, and I would say a year ago there was an opportunity. And we had the media talk about this, and we talked about it really. We could have had an olive branch and say listen, why don't we get together and work to make sure that labour legislation is the best it can be? And that's important for all sides — the government side, for our perspective as . . . you know, in our roles advocating for fair and balanced legislation. But the government decided to rush forward, that it had to have this legislation passed. And here we are almost a year later and nothing's really changed. Nothing's really changed.

And we just have a lot of questions about what was the driving force behind that then? What was the driving force behind that? What was the driving force behind the December 19th, 2007 introduction of Bill 5? Well I think it's about ideology, isn't it? It's about just the world view this government has when it comes to working men and women, and especially those who are organized and I would say those who are unorganized as well, that somehow they feel that they're not worthy of the respect that they should get.

And at the end of the day I have to ask, I really have to ask, and we've seen this, about why is this legislation before us. So much of it is unnecessary and should have been worked out in a much more appropriate way. People do want to make sure our highways are safe, that our hospitals and health care is accessible for those essential situations. But

we all appreciate the fact, when it comes to fairness, there has to be a process. There has to be a way that people can have fair collective bargaining.

And so with this, we have a lot of questions, and I know that there has been some that people have brought forward to the House. And I know that SEIU [Service Employees International Union] West for example — and the minister is well aware of this and so are members and I'm sure the staff of the ministry as well — talks about some of the needed amendments to *The Saskatchewan Employment Act*.

Now it's really important, Mr. Speaker, that we recognize the fact that now that this legislation is open and what's odd now because you have this huge piece of legislation called the employment Act, that actually covers several former pieces of legislation that actually you can access. And I do plan on raising concerns about all parts of the employment Act because now it is open. For example though, if I had a concern about workers' comp issues, I really couldn't talk about that in this bill because there's not a section relevant to that. But this bill does cover all sorts of things, whether it's labour standards, now called employment standards, occupational health and safety, that type of thing.

SEIU West raises concerns about division 14, talking about establishing multi-employer bargaining units within the health sector. And of course that was an issue that was raised over a year ago because this government had talked about how are you going to organize the bargaining units. And of course their concern was, you want to make sure that they're bargaining units with . . . In fact they were doubling up the number of bargaining units and particularly in health regions and throughout the province where you wonder, how much more bureaucracy are we going to have to deal with in terms of new bargaining units and that type of thing? And how . . .

It works through and it talked about the Dorsey commission and the regulations and the subsequent health labour relations reorganizations that they insist must be continued in division 14 in the health sector. And it's really important that they take a look at the amendments and that those amendments be carried out.

And it does go on. SEIU does talk about the fragmentation of the bargaining unit and the issue around supervisory employee and what impact it will have and the potential to lead to the creation of three or more new bargaining units within the health sector, which leads to an increase in the number of collective agreements to negotiate and the minister.

And it's been so ironic that this government here has been so over-the-top in its commitment to lean and cutting red tape, but when it comes to bargaining, here we might have a situation where you might start to create three or more new bargaining units. And all the impact of this in terms of the health region is huge. You know, the Premier today even alluded to the fact that there are over 40,000 people who work in the health region, and how are you going to break this up? How are you going to fragmentize this? And that's really, really important that we try to use some common sense, that we try to make this as effective, and try to reach the goals in making sure people have fair collective bargaining agreements. But fragmenting it and breaking it up could be a real problem.

I'm also concerned about what the driving force is behind the changed definition of employee in section 6-1(1)(h) of the Act. It talks about how this is really quite a different circumstance and it could result in fewer working people having access to collective bargaining within their workplace. Again a real concern about that.

And they go on and talk about setting arbitrary limits upon the ability of a health care worker to gain experience, training, and access towards upward mobility within the health care structure. So again, problems with that. And of course the whole issue of minimum age at which employees may be employed at any class of employment. It's not readily apparent why these two matters have not been set up in the Act itself.

And so we have lots of questions that we want to make sure that they are not lost protections. But I did ask the minister in committee a year ago about what has been the result of the lowering of the minimum age and what's been the impact of that. What's been the impact in our schools? What's been the impact in our completion, our graduation rates? We know for example that one of the challenges in our high schools is having people complete grade 12. In fact this government has set out in its vision, in its plan, that we see an increase in grade 12 completion rates. But what has been the impact of employment? And I will have questions about that.

I want to go on and talk about some of the problems identified, and I'm referring to SEIU West here, but I know other unions have raised this too. I'm talking about the definition of essential services in section 7-1(1)(c) — far too broad. It really remains unchanged from *The Public Service Essential Services Act* and talking about problems around that, and you know, how the definition was replied on by employers who justify business as usual and the overdesignation of essential employees within the health regions in the event of work stoppages. And they say if this issue is to be properly addressed, it needs to have a clearer, shared understanding of what constitutes essential services, and that's important.

They talk about using the British Columbia labour relations code definition, and I think that might be something we talk about in committee. And I think this is quite important because it was that dilemma, you know, it was so ironic that in fact many of the health regions said they needed so many people to be designated essential that in fact it was above the number of people actually working when you took into account the unfilled positions.

It talks about the public employer and what's going to happen with that, and we're not sure of what that all means until we see the regulations. And again this is the issue with so much of the legislation this government puts forward is it's all going to be, the devil's in the detail in the regulations. And this is really, really important.

Significant issues around timing and process issues are put into Bill 128, and we're not sure what the implications of all of that will be. In terms of the time frame, there's no time frame provided for the employer that furnished notice to the union, and that may be some problems.

The unilateral designation of essential services by employers, and it talks about the dispute resolution options for people to reach an agreement and how they can apply to the LRB [Labour Relations Board] and what this may all play out to be. So we're waiting to see how that plays out. And so in the whole case of the idea of a single arbitrator or arbitration board under section 7-22 does not lend to a fair and balanced resolution for outstanding issues.

And so it talks about the mandatory items but that they must also, arbitrators must also consider general economic conditions of Saskatchewan. So they call them the permissive items, include terms and conditions. But the whole thing is, when you talk about the whole economy of Saskatchewan, what that means for an arbitrator in terms of . . . The economy of Saskatchewan's quite broad and has a lot of different variables to it. And what that may mean in terms of how the arbitrators may rule, whether or not they're considering or focusing just on health sectors, maybe health sectors in other provinces, that is a question that we have to ask.

And of course the SEIU West questions the changes made under section 7-36, as the initial fine to a trade union has doubled, and it's setting it to \$100,000. And why the change to \$100,000? And I will have a lot of questions about that in committee because I find it interesting, and these will be the questions that I have in committee.

Essentially we saw a doubling of fines for occupational health and safety, and this happened about two years ago. And yet we have seen that part of *The Occupational Health and Safety Act* that was brought into force . . . All of that Act was brought into force except for one key part, and that was the part about the occupational health and safety fines. That is still not enforced. And daily, almost weekly we read about the new fines against employers who are breaking occupational health and safety law. And they're being fined, and we think that's a good thing. But we are disappointed that in fact the fines are about half of what they should be because the new fine structure was passed two years ago and has not been brought into effect. And we have questions about that.

And when we see this piece of legislation where the fines are being doubled for trade unions to 100,000, will that same standard that's being used for employers, where employers are not being . . . Fines are not being doubled even though the legislation is passed, but it's not in place. It's not in effect. Will this happen with this specific piece, specific section, 7-36? We'll have that question for the minister and we'll have some good conversation about that as well.

So we just have to ask, what is the rush? What is the rush? And you know, we could have taken some time to get this right. We could have got all the parties together and said, let's get the essential services piece right and make sure it's balanced and it's fair and it respects labour's right to fair and collective bargaining. And a dispute resolution mechanism, or whether you call that the right to strike, we need to make sure that that is treated in a fair way. We could have done this so much better.

Mr. Speaker, I want to talk a little bit about *The Employment Act*. And it was really, you know . . . We were all here on December 3rd last year when the firefighters came and did

their annual legislative lobby. It was the 15th annual legislative lobby in . . . And they talked about their concern that was in Bill 85. Of course Bill 85 was passed but not enforced.

And it was so ironic that the next day that Bill 128 would be introduced. But Bill 85, to the firefighters, had a very unfair solution to their bargaining situation in some of their locals. And it talked about section 3, how *The Fire Departments Platoon Act* sets out an exemption stating that firefighter unions in cities of a population of less than 10,000 did not have access to binding arbitration. Really it only affected one local, and that was Weyburn. And so the only option they had, if they didn't produce a collective bargain, was to serve strike notice, something they never chose to do. In Weyburn they've never done that.

And they go on to talk about how, for the others, the mandatory binding arbitration process specified in *The Fire Departments Platoon Act* for the other seven locals produced labour stability. And in fact if you took a look at firefighter collective agreements in Saskatchewan from 1969 to 2013, you would see that 146 of 198 contracts, or 74 per cent, were freely negotiated.

So it seemed to be a process, a process that was working. But what happened was that Bill 85 and division 15, which really was a replacement for *The Fire Departments Platoon Act*, raised the population threshold in the final stages — and I remember that day when they did this — went from 10,000 to 15,000 and ultimately to 20,000. So as a result of that, firefighters in Yorkton, North Battleford, and Swift Current joined Weyburn as those locals that had no access to the arbitration system that was in place. And in fact we know that these were already amongst the lowest paid professional firefighters in Canada. And then they would not be able to apply for interest arbitration like firefighters in Regina, Saskatoon, Moose Jaw, and Prince Albert.

So this was really a problem, and it's really something that the firefighters have argued that something be done to take its place. That actually this government step back and say, maybe we made a mistake. And I'll be asking this in committee. Are they prepared? Are they entertaining issues around or consideration of amending the employment Act so that these folks would have access to interest bargaining?

And so this is a real problem and I think that they do something to help the four smallest firefighters' locals, and have them, you know, have the same access to the kind of bargaining process that you have in Saskatoon or Regina and Moose Jaw and Prince Albert. So this is really, really important that we do something about this. And this is just one of the examples of many that we have where, as I said, this government has not taken the type of time and consideration to have good labour legislation here in Saskatchewan.

And the other one that I want to talk about is around minimum wage. And today we just heard of course that the minimum wage goes up to 10.20 on October 2014. So those summer students that will be looking for work, this will be the third summer that they will be paid \$10.00 an hour. We think that's unfortunate. And of course going up 20 cents is not an awful lot. It is about time that they actually did make an announcement. Of

course it's sort of a mixed blessing and we have some disappointment. We thought it would be higher than that.

We know that Manitoba's 10.45; BC is at 10.25; Ontario, 11; Nova Scotia's 10.40. That goes up to 10.40 tomorrow. So somewhere between 10.40 and \$11 would have been a more reasonable number. And we have to see — we are looking for it, maybe we'll get some insight into this — the indexation formula. But we are behind eight provinces and territories. And then if we index it at this level, that means that we'll always be behind, that we always will be behind, you know.

And I know that the government takes a lot of pride in the individual taxpayers now pay no Saskatchewan income tax on their first 18,650. But of course we know that if you're full-time minimum wage, you're actually making much more than that. You're at 20,400.

So I think that while they can . . . You know, it was really interesting. There's a comment about, that was made about using income tax to solve, you know, this fact that you're paying poverty wages. But really, people just want to be paid a fair wage and they want to pay fair taxes. It's not an either-or situation. It's not an either-or situation. And I think that this . . . We'll be looking forward to hearing more about this. And of course we're not going to hear the formula until quite a bit later in the year and what the formula will be made up of.

And so he's saying that the change in minimum wage will always be announced on or before June 30th of each year and it will take effect in October. So maybe on one hand that's getting ready for the season, Christmas rush, and people employed in that. That's good. But I know for students, they're going to be one year behind in terms of having a fair wage.

And so we are looking forward to seeing what the regulations will be. And of course when we asked this question last week, the government was sort of really taking its time in terms of getting this minimum wage regulations out. But it was so ironic because last year that was yet another reason why they said they had to get the employment Act passed, because they wanted to get the regulations for the minimum wage regulations out. But it will be at least a year before that is actually . . . You know, a year will have passed, a year will have passed.

So, Mr. Speaker, Mr. Deputy Speaker, there is a lot that I can really talk a lot on this issue because it's a very, very important one, and one that we really should be focusing on, about what's really important to working women and men. And I would have to say — and I know this is one that the minister and I have often talked about and we share a lot of agreement — it is really around making sure Saskatchewan is a safer place to work. And I would rather be talking about occupational health and safety and those concerns. Previous year we saw a situation where, well about 60 people had died from workplace incidents. We don't want to see that kind of thing occur again.

We know that in the changing workplaces in Saskatchewan, whether it be agriculture and of course forestry, was announcements last week. But of course in our workplaces in the

health regions, in our highways, all of these places where people do work, we have to make sure they're as safe as possible, you know. And I could go through the different sectors whether it's . . . construction is also one that needs a lot of attention.

We just have to strive to do a much better job and we need to focus on the issues that are important and not be distracted by ideology. And here we are seven years later, seven years after the fact, and I remember that, 2007, in the different situations that caused some concerns. But you know the working women and men were always there to make sure people were safe, and that if there was a critical situation that they were looked after.

So we were disappointed then. We continue to be disappointed about how this takes away from what really needs to be the key issues here in Saskatchewan. And I haven't even begun to talk about what the costs would have been over these seven years in terms of what it's cost the public purse in terms of court costs, developing a bill like Bill 5 just to have it thrown out. And now we're repealing it. What was the total cost of that failed adventure by this government?

And so, Mr. Deputy Speaker, I would like to say that we won't be here next year debating yet another amendment to *The Saskatchewan Employment Act*, but I have a funny feeling we will be. And we'll be here for many years to come, as this government can't seem to get it right in terms of labour legislation. And I think that we're going to have . . . it's going to be a piece of work that needs to be corrected, needs to be corrected. But of course this government's ideologically bound by some inability to consult and work with people who make this province what it is. I just feel that we've got to do better. We can do better, and we need to do better.

And so with that, Mr. Deputy Speaker, I know that we'll have a lot of questions in committee because of course, as I said the employment Act is a large piece of legislation. And so not only are we going to be talking about essential services, we're going to be talking about minimum age. We're going to be talking about minimum wage. We're going to be talking about occupational health and safety. We're going to be talking about the firefighters sections and what's happening there. Because you know, once we get into committee and we're talking about amendments to legislation, this bill allows us to have the opportunity to ask those kind of questions.

And so with that, Mr. Deputy Speaker, I have no further comments at this time.

