

SECOND SESSION - TWENTY-SEVENTH LEGISLATURE

of the

# Legislative Assembly of Saskatchewan

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## DEBATES and PROCEEDINGS

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### PRIVATE MEMBERS' MOTIONS

#### **Motion No. 3 – Labour Legislation**

**Mr. Forbes:** Thank you very much, Mr. Speaker. It is a pleasure to rise today and introduce a motion, and I'll be reading the motion at the end of my remarks. But really what it is is what we're calling for the minister to take some time, take some time and listen to the advisory committee on Bill 85 that says, what is the rush? What is the rush? Why are we in such a panic to get Bill 85 done?

And I do think it's an interesting day, I do think it's an interesting day in that we have seen some really good progress, particularly around the asbestos file. And I do want to recognize the contributions of the ministers, the members of the Human Services Committee, and all the members of this legislature in moving that forward. You know, when we get fired up and we say we won't take advice from either side, but we do actually listen to each other and we do think about common sense solutions.

And I want to say that was a really good piece of work, and it's really made possible by the co-operation of this House, and it was really a common sense thing to do. So I do want to thank all members, and particularly the government side, because it is something when we break out of our old habits that we all have and say what's the best thing for people of Saskatchewan?

And so in that spirit, I do think that we should do more along that way if possible. And in that spirit, I'm thinking that in terms of Bill 85, which is a consolidation of some 12 bills, we're not disputing the fact that the government has the right and the mandate to do this kind of thing. We're just saying, let's take the time to get it right. Let's make sure that people have the confidence that they will be protected. And not only from the employees' side, and clearly we are worried because many of us and there are many people out in the public who thinks that the balance of power has shifted dramatically in favour of one side of the equation.

And what we want to see, we want to make sure the balance of power is, there is a balance between the employee and the employer, respecting the rights of the employer, the entrepreneur to be able to make a profit, to be able to do the kind of work that they feel that drives them forward. And that's really important that we recognize that and we honour that, but at the same time that we recognize the other side of the equation that we will not tolerate exploitation, that people should be paid a fair wage, and that safety is paramount, that we want to make sure that that is respected. So that's the balance that we want to see happen.

And as societies mature and evolve we see that balance moving forward, neither side getting an advantage, but actually that they both can do much better in their own spheres. And in some ways sometimes those spheres overlap, and that's a good thing too. But we would like to see entrepreneurs, owners, and the Crowns flourish as much as possible that they can make a return on their investment, but so can workers have better wages, more secure tenure, and more safety in their workplace.

So we move this forward and it's very important that we recognize . . . And we've just been debating about the role of entrepreneurs and how well they've been doing in Saskatchewan. And that's important that we think about that. But we know that a lot of what's happened in Saskatchewan over the last several years has been in a climate of labour laws that are in existence right now. And if we mess with that, if we take those certainties away, then we might be causing, might be causing problems.

And one of the things that people look for in investments is some predictability, what will happen in the area that you're going to invest. Is it predictable? What will happen with the elections?

In Canada we are very fortunate that we have a predictable democracy and we can know what happens with that. We have an ability to change parties without huge ramifications, generally speaking. Some of us will say that there are significant changes, but when you see around the world sometimes with the elections, you wonder why people would invest in that country. And in Saskatchewan it's relatively stable, relatively predictable, and that's really important. And so we think that it's important to move forward with this in a way where all sides understand what's happening, what's at stake, and how can we do the best that we could possibly do.

Now I do want to . . . And you know, I have talked about this before, so in many ways somebody will say, it sounds like the same speech and is it going to be the same speech? It won't be the same speech, Mr. Deputy Speaker, because there's two areas that I do want to talk about. I want to talk about workplace safety, and I will get into that in a minute because particularly over the release of the WCB [Workers' Compensation Board] report last week, it really was a wake-up call and we have a real crisis when it comes to workplace safety. And we have a real opportunity, Mr. Deputy Speaker, to make a real difference when it comes to making Saskatchewan a place where workers want to come because they feel that it's safe, but as well, employers want to be because the regulations are fair, but secure and rigorous.

So they know that it's not an unlevel playing field between companies, that we all have to be . . . We're all being inspected. We all know what the rules are. And that's really important, because some employers feel that others get an unfair advantage because they are taking advantage of the regulations, not following them. And that's just not on. So I want to talk a little bit about that in a few minutes.

I also want to talk about the freedom of information or Saskatchewan information Privacy Commissioner, his response to and concerns around Bill 85, and how he cautions us to move or be more reflective on the process and how we can improve the bill. And again no one is saying, you can't do it; don't do it — just saying, take the time to do it right. Do it right, because the stakes are way too high. And we're talking about livelihoods and you're talking about safety, and that's an issue.

But my motion talks about how the minister is failing to take the advice of the members of the Minister of Labour's advisory committee. And I think that's unfortunate because when we do set up advisory committees and they give us advice, we have the choice to either follow it or not to follow it. But these folks that belong to the minister's advisory committee feel very strongly, and to the point that they issued a press release. They've had media on it. And it's not just a low-key suggestion that he go slower, but that they really are deeply worried about the ramifications of rushing this forward too fast.

And so I would like to, though, read into the record and reflect on some of the parts that Hugh Wagner . . . He's on the minister's advisory committee, but also is from the Grain Services Union, and he wrote a commentary in the *Leader-Post* just over a month ago, March 6th, 2013. And I'm going to read big parts of it because I do think it's important to have on the record and for us to be thinking about. Because as we're finishing up the bills and we're moving into committee now in the House, that it's really time for us to think, is there really a necessity? Is there really a necessity for us to move as quickly on this as we need to?

And we do see the government saying, you know, we need more time. The lobbyist registry is a perfect example of where the minister said, for us to get this right we need to take more time. There you go. That seems like a straightforward, reasonable thing — get it right. Because, you know, the unfortunate thing, Mr. Deputy Speaker, is we do not want to see a repeat of history. And we would hope the government would learn from history, where we've seen the Central Services bill end up in court. And now it's been some five years of that in development.

And ironically for Bill 85, there's a placeholder for essential services. But I think it's much more logical, much more common sense to invest in the front end, get it right, and not be thinking about how we're going to end up in court when this is all said and done. If we can keep it out of court as much as possible, that's the best thing. That's the best thing. And so if we can do that, let's aim for that, because . . . And people have taken, and I have said, literally hundreds of hours of due diligence trying to understand this bill, all the ramifications.

And we still have people asking significant questions about, what does it mean? And it's

more than we agree or we disagree. It's what do you mean, and the big questions around the idea of what's going to happen in regulations. Are regulations going to be just transferred over? How is the bill going to come into force? Is it going to be section by section, part by part? We have some real concerns about that.

So, Mr. Deputy Speaker, Hugh Wagner writes, and the title of the commentary is "New Saskatchewan labour law: why the rush?" And he starts out by saying:

As labour leaders, business leaders and government we have a responsibility to work together to maintain a stable, balanced and fair work environment for all people in Saskatchewan. We have been charged to preserve the rights and freedoms of choice we all enjoy resulting from the solid foundation of labour legislation we have built together over the past 70 years.

And so he's talking about, all political stripes have all added something or taken away something from the evolution of our labour law. And interestingly, and I did talk about this about a week ago, about the idea of Walter Scott and what his contribution to labour law was, and it was pretty amazing. He was pretty committed to the idea that we had to make sure we paid a fair wage in Saskatchewan and we had to protect vulnerable workers. And that was at a time when we were building the building we're in today. It's 100 years . . . It was 100 years old; we celebrated that last year. But it was the major project at the time here in Saskatchewan, and we had to have safe and fair working environments.

Now the project before that was the CPR [Canadian Pacific Railway] and that brought the railroad unions into Saskatchewan in the local labour council. But Walter Scott, as a Premier, saw his responsibility in terms of labour law as a significant one. And he thought and he believed that unions could play a significant . . . or organized labour play a significant part in the development of Saskatchewan as we know. So it's very interesting when we've talked about how labour law has developed.

We challenge ourselves to be thorough in our review of any major legislative challenges so we may reduce the risk of unexpected or unintended outcomes that could harm the livelihoods of people we serve in the community we seek to enhance. And we are all . . . I mean, I just want to stop there and just reflect on that for a minute, because we are all deeply, deeply committed to the growth and prosperity of this province. There's absolutely no question about that. We are all deeply committed to that. And I think that that sometimes is the problem, is how do we articulate that? So we need to take the time to get that right.

But Mr. Wagner goes on and says:

Saskatchewan stands at the precipice of labour instability with the introduction of a sweeping and rushed overhaul of the province's labour laws in Bill 85 — the new Saskatchewan Employment Act.

And he talks about that the history of that, the forced . . . The minister talked of 14 pieces of legislation, 15 pieces of legislation being rolled into one. But actually, only 12 made

that cut into that and what that all means. And then he talks about:

An advisory committee, comprising both business and organized labour representatives, was established by Labour Relations Minister Don Morgan to provide input on the changes being contemplated. What may come as a surprise to many was that this committee reached relative consensus on most issues relating to the changes. It is therefore even more surprising this consensus is not reflected in Bill 85.

It raises a question: what is driving the government's rushed efforts to pass Bill 85 in the spring sitting of the legislature? There's always a danger that far-reaching legislative changes, when driven by undue haste, can create unplanned consequences, as seems to be the case in this instance.

What is of equal concern is if the people of Saskatchewan understand how these changes will impact them, their families and their businesses.

For individual workers, the balance of current legislation will shift dramatically in favour of employers.

So that's the concern, the shift of power. Now, the minister may not see it that way. He may see it as the balance. But we're saying, we don't understand that. We don't see that. Take the time to demonstrate. Take the time to illustrate that, because if you don't, then the consequences will be instability in the workplace, and it could end up in court. And so we have some real concerns about it.

And, you know, and we do see some of the basic changes, whether it's the end of the eight-hour day to the 10-hour day, or whether it's minimum wage or really means . . . What's going to happen with that? We have not seen the regulations that the minister said would be forthcoming in terms of indexing it to the cost of living. All these are questions that we have, but we need to understand this better. And I think the minister should take the time to make sure that we're all under the same understanding.

He goes on and he writes:

Under Bill 85, employers will have the discretionary power to limit whether employees are able to access the traditional two consecutive days off in a work week. Scheduled lunch and rest breaks may no longer be the common standard as employers will be able to unilaterally deem breaks to be unreasonable, and eight-hour work days could potentially be extended to 10 hours, raising the overtime threshold without employee consent. This amounts to an unwarranted erosion of individual rights in the workplace.

For unions, businesses and government alike, costs could soar as all are forced into negotiating and administering multiple contracts as a result of changes to employee and supervisor definitions. The same would apply for health care, provincial institutions and the civil service, with taxpayers footing the bill.

There are clearly many unknowns and much work still to be done to get Bill 85 to a place where it works for everyone.

And I think that's really key. That's really key. We want it to work for everyone. It's really important that at the end of the day that everybody can say, hey, this makes sense. It seems to work. It's one big code. I still have some questions about that, because in the day of technology, it's pretty easy to put things together. That's not such a necessity. And we see, we see actually within the bill, there's at least four different definitions of employee and a couple of different definitions of employer. And this kind of instability, when you thought this was going to be much easier to understand but yet you have multiple definitions of a concept in one bill, that adds, that adds instability, I believe.

Mr. Wagner goes on, saying:

We are all part of the "Saskatchewan advantage" and the biggest economic boom in our province's history. We have the lowest unemployment rate in the country and more people are moving to our province than ever before.

All of this has been . . . [done] under our current labour legislation — there clearly is no crisis requiring a hasty fix.

He goes on to say, Mr. Deputy Speaker:

Modernization of laws is a good thing, but it requires thoughtful and inclusive review and that will take time. There is no harm in taking time, but there is a worrying potential for real damage if passage of this . . . legislation is rushed.

And that is what Hugh Wagner, general secretary of the Grain Services Union, writes. And I think there's a lot of wisdom in that column. I think it's one that we have raised a lot of concerns about where we see the government in many times saying we want to take some time and get it right, and it's demonstrated that on several issues. In fact we even talked about bullying and we talked about putting information about gay-straight alliances up on websites. And they say, can't do that right away, because we want to get it right.

We think that's relatively straightforward, but we don't know what the timeline is on that piece. But we know the timeline on this piece. And we don't know, as I said earlier, we don't know how it's going to come into force because we are anxious to get the bill passed, but what does it mean in terms of regulations? When will it come into force? So we have some real, real concerns.

But, Mr. Speaker, the piece that's . . . There's two I said. But one piece I really do want to speak about is the idea around what are our priorities in Saskatchewan workplaces. And I believe the number one workplace issue today is workplace safety. And it was only reinforced unfortunately, tragically, by the numbers that WCB released last week. And if you add in the farm workplace deaths, it would actually be up to 75 — I think there were about 15 deaths.

And so this is really clearly becoming a crisis. And you know, the minister quoted me in my agreement with him that this needs to be a priority, and it should be. It should be the priority for this House and for this government.

If it was to make one commitment, one contribution to Saskatchewan workplaces that I believe is important, it's to tackle the issue around workplace safety. It was a wake-up call, it really, truly was a wake-up call last week when we were all shocked by the numbers from WCB. And we could see that the folks from WCB even were horrified by the information because they just, they think they're doing the right thing. And I think in many ways they are, but it's something that really needs to take full attention of this government and not be distracted by Bill 85 in its rush to get it done, you know. And I think this is really important.

And I think that, and I want to quote, and we often quote Murray Mandryk, but his column from Wednesday, April 2013. And he talks about "Job safety should bridge labour divide." And you know, Mr. Deputy Speaker, we saw that today with the asbestos registry. And last night in committee we heard it over and over again, that that legislation will save lives. Simply it will save lives. And so we need to do more of that.

And we'd be very interested on this side to talk more about that issue. That's the kind of thing that we need to see happen. But Murray Mandryk says, and I quote:

Lost in the politically charged debate over Saskatchewan labour law, where battle lines are always drawn between union and non-union, is the reality that labour laws impacts us in ways that go well beyond just our workplaces.

And he talks about how we have to really tackle the issues around that really affect us and our families. And actually interestingly last night, some folks talked about how asbestos not only affects the person who's got it, who is going to pass away from the illnesses related to asbestos, but also their families, their children, their spouses. But he goes on to say:

But if there is one labour issue that should bridge the interests of both workers and employers, it is clearly workplace safety. This takes us to Tuesday's release of the 2012 Workers' Compensation Board (WCB) annual report, which unveiled an alarming 60 job-related deaths in 2012 — the worst fatality rate in 30 years.

"Every category that the WCB maintains for the cause of death and every age group saw an increase in the number of fatalities compared with 2011," the WCB reported in its 2012 summation that compares last year's 60 deaths with 36, 31, 32, 44 and 36 deaths from 2007 to 2011 . . .

And it talks about 14 construction deaths and 43 fatalities resulting from injuries in 2012 and the increased cancer deaths from past exposure to asbestos.

And interestingly, just even as we were debating entrepreneurs, at least four that I could tell from the list were owners of the business in which they died. So this is not just a remote thing, and it's not just in Saskatoon or Regina or Moose Jaw or Prince Albert. It's

right across this province, right across this province.

So it's an issue that we have known about and that we have tackled with many initiatives, but it needs even more, more attention, Mr. Deputy Speaker. So clearly we think this is the time to get it right.

Now we are talking about another bill in front of us, the Workers' Compensation Board bill, and we need to talk about that. What are the implications of that? And there's lots of interesting questions we'll have about that in committee. So there's lots of work to be done in the area of labour.

And the other one that we need to talk about was temporary foreign workers, and there is a bill before the House on that issue. And clearly we've seen the implications of what can go horribly wrong if we don't have the legislative laws in place to deal with that issue. We can look at the RBC [Royal Bank of Canada] fiasco that happened just a couple of weeks ago, when that's not done well. So, Mr. Speaker, I just think that we've got to take a good, long look at that issue.

Lori Johb. I want to read the letter that Lori Johb wrote on April 16th, or April 13th I believe it was. And she writes:

I find it extremely alarming that in 2012, Saskatchewan recorded its largest number of workplace fatalities in more than 30 years. Over the past couple of years, it actually seemed like we were making positive progress in the area of occupational health and safety.

In 2012, in fact, considerable increases were made to the fines that are levied for failure to comply with safety legislation. Last week, however, in response to the devastating number of workplace deaths last year, the minister of workplace safety boasted about a new omnibus . . . 85, that will rewrite labour legislation in our province. The minister claimed that Bill 85 will somehow address the dramatic increase in workplace deaths that we saw in 2012.

She writes:

Make no mistake, the government's omnibus Bill . . . will do absolutely nothing to improve safety for working people in Saskatchewan. I would think that something as important as keeping workers safe and healthy would be a priority for the Saskatchewan Party government, especially when we have a larger number of people working in the province than ever before, but the sole purpose of Bill 85 is to reduce labour standards and to unfairly side with employers over working people.

To try and suggest that the omnibus bill will somehow protect working people, especially those who are in danger of losing their lives, is absolutely wrong and it is extremely unfortunate that the minister tried to make such a claim.

Lori Johb. Lori Johb is Chair of the Saskatchewan Federation of Labour's occupational



health and safety committee.

So clearly we have significant differences of opinions here and significant different opinions about what really is happening in terms of occupational health and safety. And so I think the onus on us as legislators is to get it right, to get it right. Take some time and deal with these concerns that people like Lori is talking about or rise up to the challenge that columnists such as Murray Mandryk is saying. Let's get it right. This is one issue we can all agree really needs attention.

We have more workers than ever working in this province. And when we see the numbers that came out from WCB last week, it is the time, the time to get it right. So, Mr. Deputy Speaker, I think that it would be just a really important signal to labour, and it was a great one today in Bill 604, Howard's law, that we do actually value people's workplaces and that they should be safe, that we do take the time to get it right.

Now the other issue I wanted to take just a couple of minutes before we finish up for the week, I want to take a minute and reflect on the letter that Mr. Gary Dickson, the Saskatchewan Information Privacy Commissioner, wrote to the minister on March 1, 2013 in regards to Bill 85, the employment Act. And I always value his comments because they are very thoughtful and he takes a look at it from how do we serve the people of Saskatchewan in the best way.

So he's talking about privacy, and again I think this is really important. And I'll read some of his comments into the record because I think that, I hope that, and I do know that the other side does actually read through this. And I hope that the minister does take some time to take a look at his letter again, take a look at Mr. Dickson's letter and say, are we meeting the kind of standard we should be having in Saskatchewan in this day and age? He talks about some general comments, and I quote:

Before dealing with the provisions in the Bill, I might offer some general comments. I recognize some of the elements of the Bill are not new and appeared in earlier iterations of Saskatchewan labour legislation.

But he talks about:

. . . since the 2003 proclamation of HIPA and the adoption by the Saskatchewan Government of the Overarching Personal Information Privacy Framework for Executive Government, and increased awareness about privacy rights of the individual in the information age, a number of those older elements may no longer be appropriate or at the very least . . . require modification to align with public expectations and current privacy legislation.

So he is making a case, and it fits quite well into what the government is saying — time to modernize. He's saying, let's take a look. One of his primary concerns is around no privacy regulation on private sector employee information. He says, and I quote:

A further observation is that Saskatchewan has still not made any move to align our privacy regime for employees of the private sector with the modern privacy

laws utilized by our partners in the New West Partnership [particularly] (British Columbia and Alberta). Those privacy laws, the *Personal Information Protection Act* (PIPA), in both provinces are focused on small and medium-sized businesses . . . [Some] private businesses in Saskatchewan are still subject to the . . . federal *Personal Information Protection and Electronic Documents Act* (PIPEDA) they are disadvantaged relative to businesses in British Columbia and . . . [BC] that have much clearer and simpler rules for the private sector.

So again there is an example of privacy issues that we need to take a look at, to modernize. He talks about asymmetrical privacy protection in Saskatchewan. He talks about:

As a general observation, the privacy rules that apply to . . . [privacy] information (PI) and personal health information (PHI) of employees of government institutions and local authorities may be of limited benefit overall if the private sector organizations, which will be collecting, using and disclosing . . . [the privacy information] and PHI of their employees, are for the most part unregulated.

So they have some real differences there, and that's really important that they get them on the same page. He raises a concern about no whistleblower protection for FOIP [*The Freedom of Information and Protection of Privacy Act*], LAFOIP [*The Local Authority Freedom of Information and Protection of Privacy Act*], and HIPA [*The Health Information Protection Act*], that there's no protection for those people. And that really is an issue because:

The Bill fails to address the question of protection for employees who, in good faith, alert our oversight office to actions by government institutions or local authorities that violate FOIP, LA FOIP or HIPA.

So it's really important that you get that. So he talks about Bill 85 as both too little and too much. And so I think it's important that we get that balance, the balancing is right.

So I think this is really, really important. And he talks about the fact that sometimes . . . He says quite clearly, "The employer is not entitled to specific diagnosis of illness but is entitled to a medical certificate confirming disability and the expected date of return . . ." So an employer cannot require a medical certificate for suspicious absences.

So he really goes into a lot of detail. And I see that my time is running out, but we've not had a really good answer in terms of privacy, and I think that this is very important.

I just also want to read this one last quote, but I will be asking a lot of questions in committee going through this letter in quite some detail actually. He says:

In my respectful submission, absent a compelling business interest or a suspicious circumstance that would warrant an inquiry into the diagnosis of the illness or disability . . . there should only be the need for a medical certificate that would verify the absence is for appropriate cause.

So he says there's a balance in there. And this is what we're . . . All of it is about balance, isn't it? The employer is only entitled to know just what he needs to know or what she needs to know — was it reasonable for the person to be gone? — and not to get into the details of the illness. That's a privacy issue. And so, Mr. Speaker, I think that's really, really important that we deal with people who have legitimate questions like this.

So, Mr. Deputy Speaker, we see that if we want to develop the very best legislation that we possibly can that will govern this province for decades to come . . . And we really hope that all legislation that we do in this Chamber is both — has very little unintended consequences but can stand the test of time and can stand challenges in court. And I don't see that with this piece of legislation. There's too many questions, and so we have a lot of worries and concerns about this bill.

We do not challenge government in its authority of having a mandate to take a look at labour. In fact we welcome it, and in fact it looks like for example the Privacy Commissioner very much welcomes that as well. But we need to deal with this. So to that end, Mr. Deputy Speaker, I would move:

That this Assembly urge the government to listen to the advice of members of the Minister of Labour's advisory committee and delay the passage of Bill No. 85.