LEGAL ASPECTS OF THE CREDIT UNION MOVEMENT: AN ANALYSIS OF THE EVOLUTION OF SASKATCHEWAN CREDIT UNION LEGISLATION

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LEGAL ASPECTS OF THE CREDIT UNION MOVEMENT: AN ANALYSIS OF THE EVOLUTION OF SASKATCHEWAN CREDIT UNION LEGISLATION

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by
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This year is the 50th anniversary of the enactment of The Credit Union Act of Saskatchewan and the establishment of the credit union movement in Saskatchewan.

The purpose of this thesis is to examine whether credit unions have changed from their original nature, namely whether credit unions nowadays still retain their original social and economic functions. This question became more serious in the 1970s and may be largely answered through summarizing and analysing the evolution of The Credit Union Act and some legal problems which effected the credit union movement. In other words, this thesis seeks to understand those changes credit unions have undergone, and from which have arisen a few issues relating credit union legal status.

The thesis begins with an introduction to the background of establishing credit unions in Canada. Desjardins definitely played a key role in this process. As there are a few authors who have already written quite a lot about Desjardins and his role, this thesis only focuses on analysing the features of a few early credit union models. By doing this, one can see that early Saskatchewan credit unions mainly took after the Nova Scotian model, which evolved from the early Quebec caisses populaires and the early American models. All of the early North American credit union models were based on earlier European models.

Part II of Chapter 1 studies early credit union legislation in North America, which influenced later credit union legislation in other provinces of Canada, including Saskatchewan The Credit Union Act, 1937, the first credit union legislation in the province.

This thesis analyses the evolution of The Credit Union Act of Saskatchewan in a rather detailed way from its enactment through every change during the period 1937-1985. Although the Canadian credit union movement did not initially start in Saskatchewan, the credit unions of Saskatchewan gradually, in certain aspects, achieved a more important position in developing the Canadian credit union movement. Therefore, it is useful to look at the features in the evolution of Saskatchewan credit union legislation.

The other purpose of Chapter 2 is to try to prove that (1) credit unions have indeed changed a great deal; (2) these changes have been based on credit union member needs; (3) compared with other financial institutions, credit unions retain some of their uniquenesses, which show that credit
unions still keep their original social and economic functions.

Chapter 3 of this thesis focuses on a few legal issues that credit unions have met and analyses the issues from which they arose.

Before the analysis of these legal problems, Part II of Chapter 3 introduces and analyses some credit union definitions. This has helped the author to understand the nature of credit unions. Subsequently, cases relating credit union legal status and the opinions of some scholars about the constitutional position of credit unions are analysed.

Finally, conclusions are drawn on two questions. One concerns the nature of credit unions. The other seeks to answer the question of constitutional jurisdiction over credit unions.
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CHAPTER 1 -- PART I: A INTRODUCTION TO THE BACKGROUND OF ESTABLISHING CREDIT UNIONS IN CANADA

On Co-operatives

The credit union is one kind of co-operative. Wherever and whenever credit unions have been established in the world, this aspect of the nature of credit unions has never been questioned.

The theory of co-operativism first appeared in its modern form in Europe during the early nineteenth century. Owenism is considered as the basis of the theory. The principles of the Rochdale co-operative model have been regarded as the fundamental model for all kinds of co-operatives through the history of their development. In Britain, Germany and other European countries, many attempts to improve co-operatives both in theory and in practice have occurred. Therefore, co-operatives were subject to many different influences, including religious, political and economic influences.

The religious factor played quite an important role, especially in the early period. It advocated that people could help themselves by helping each other. This religious altruism was a basis for the "mutual aid" feature of co-operatives. This religious factor also made co-operatives pay attention to their members' individual characters. For example, the Raiffeisen co-operative credit society, one of
the early European credit union models, required that the members should have good, industrious and friendly characters.  

The political factor was identified by some people as "Utopian Socialism" or "Philanthropic Paternalism" in early co-operativism. The purpose, according to this ideal, was to reduce the hardship experienced under industrial capitalism.

The economic factor refers to the co-operative being a good means to help people address their economic problems.

Some co-operatives in their operations only focussed on one purpose, Owen’s emphasis was mainly political; Raiffensen’s people’s bank initially had a strong religious purpose, etc. In practice, most co-operatives combine all three elements. Through over 100 years of practice, co-operativism has greatly developed and changed. However, co-operativism still emphasizes its social and economic functions today. In terms of theory, there are five schools of thought, which are briefly described below.

(1) The Co-operative Commonwealth ideology is attributed to the Rochdale Pioneers. Economic and social activity are herein considered important. There is a move towards a totally co-operative social order wherein decentralized decision making would exist. The argument goes that other
organizational forms will generally lose favor as co-operatives grow stronger.
(2) The Co-operative Sector ideology provides that co-operative enterprises co-exist with the private sector and with government and that all contribute to democracy and to a strong economy.
(3) The Co-operative Socialism ideology emerged in Russia during 1919. Co-operatives are essentially seen as an arm of a state-planned and state-controlled economy.
(4) The Modified Capitalism ideology sees co-operatives as small capitalist ventures. Goods and services like those provided by large capitalistic organizations are provided to members at competitive prices. Profits are turned back to the members.
(5) New Age Co-operativism emerged in the late 1960s and early 1970s in response to social protests and the oil crisis. It incorporates the needs for a cultural shift which would see decision-making returned to the community level. More attention is directed toward ecological preservation, and to general lifestyle considerations. There is a heightened emphasis on member needs.
Co-operative principles today are basically derived from the Rochdale Pioneers model. In 1937 and again in 1966, the International Co-operative Alliance (ICA) modernized co-operative principles through special committees for solving controversies which arose with regard to them during the 1930s and the 1960s.

Simply, the Rochdale principles are the following:

1. Open membership;
2. Democratic control -- the principle of one member, one vote;
3. Limited interest on capital;
4. Distribution of surplus in proportion to business transacted with the enterprise;
5. Business conducted on a cash basis;
6. Political and religious neutrality;
7. Perpetuation of the co-operative philosophy through educative works;
8. Sale of only pure, high quality goods; and

The ICA, after considerable arguments in 1966, revised and chose the following as basic co-operative principles from Rochdale model:

a. Open membership to all persons who can make use of the co-operative's service without artificial restriction or any social, political, religious or racial discrimination.
(b) Democratic control by the persons elected by members with "one member, one vote" to administer the organizations in a suitable form.

(c) Strict limitation on share capital interest.

(d) Distribution of surplus or savings among members in proportion to their transactions with the society for development of the business of the Co-operative and common services.

(e) Education of members in the principles and techniques of Co-operatives, both economic and democratic.

(f) Active co-operation with other co-operatives at local, national and international levels in order to best serve the interests of their members and their communities.

On Credit Unions

The European credit union experience of the 19th century influenced the credit union movement in North America. Usually, people hold that the following models were considered by American credit union leaders when they initially established credit unions.


This Peoples' Bank was a credit society and the earliest urban credit union. It was set up to meet crisis conditions, which occurred in the 1840s. According to its theory of the
function of co-operatives, the co-operative should play a supplementary role in the capitalist system, as only the poor and economically weak were in need of special assistance in satisfying their economic needs. Schulze-Delitzsch Peoples' Bank particularly wanted to help artisans to compete with big factory production, and so preserve a healthy lower middle class. The following were its main features:

(i) Membership was mandatory and each member was required to contribute to the common pool of capital (self-help and self-government). By requiring high entrance fees and the purchase of high value shares, the problem arose that few poor people could be members in such a bank. However, the shares could be paid for by instalment.

(ii) Borrowing was only for productive purposes.

(iii) Loans should be endorsed by two other members and were only intended for short-term (3 months) periods.

(iv) The moral characteristics of members were very important: members should have regular, sober and industrious habits.

(v) Unlimited liability (self-responsibility).

Jack Dublin, after he analyzed the European credit union models in his book called "Credit Unions: Theory And Practice" (1971), concludes that the Schulze-Delitzsch model has "business" features. He says:
So he (Schulze) set up his society with share capital and made the shares an attractive investment by insisting on efficient operations, compensation to employees and officers, high dividends, and loans for productive purpose only. When more money was needed, Schulze went to the commercial banks.  

2 German Friedrich Wilhelm Raiffeisen Peoples' Bank of 1864.

Raiffeisen started a loan bank in 1849, which truly had philanthropic characteristics, because the money in this bank was from well-to-do merchants and monied citizens and operated according to Christian beliefs. Because of this, Raiffeisen's bank was not regarded as a co-operative. However, his Peoples' Bank, established in 1864, became successful and is regarded as the earliest rural credit union. Similar to Schulze, Raiffeisen wanted the credit union to help support the lower middle class, in his case the small peasantry. Raiffeisen's motivation in establishing such an organization was to solve economic problems, too. The Raiffeisen Peoples' Bank had the following features:

(i) High social purpose: helping people was more important than making profits.

(ii) Unlimited liability based on Christian beliefs: each one should be responsible for the other.

(iii) Small, rural and territorial membership limits.

(iv) No remuneration.

(v) Good character requirements for membership.
(vi) Loans tended to be fairly long term.
(vii) Simple requirements for membership. Anybody who proved himself/herself as having tangible assets could be a member; there was no requirement to buy share capital. Share capital did not receive dividends.15
(viii) All surplus went directly into the slow build-up of reserves to be utilized as loan capital.

3 Italian Luigi Luzzatti Peoples’ Bank of 1866.

The purpose of the Luzzatti Peoples’ Bank was to eliminate usury. Luzzatti had studied the two German models carefully before he started his practice and carried on his Peoples’ Bank with some of the German features, but he also used his own improved ideas. His model had the following features:

(i) Much lower value for par share ($10).16
(ii) Limited liability.
(iii) The money for loans came from the members. A loan needed no security other than the member's good reputation.17
(iv) One member, one vote.
(v) Every year one quarter of the surplus would be retained as the reserve fund to guard against losses.

Some commentators described the Luzzatti model as something between the two German styles.18
On Credit Unions In Canada

On the evening of December 6, 1900, the first credit union/caisse populaire in Canada, indeed, in North America, was established in Levis, Quebec by Alphonse Desjardins. Within another six years, two other caisses populaires were organized in the province. After the Quebec credit union legislation of 1906, the credit union movement spread rapidly in Quebec. Desjardins began introducing the idea of the credit union to other parts of Canada and to the United States. As a result, a civil servants' credit union was formed in Ontario in 1909 and the first credit union in the United States was established in the small Catholic parish of Ste. Marie, in Manchester, New Hampshire in the same year.

The credit union movement in Canada began its great leap forward in the late 1930s. Two factors played key roles in this progress. One was the Antigonish Movement in Nova Scotia, starting around 1928, which propounded that co-operative principles as a good formula for realizing the Movement's program. The Antigonish Movement strongly promoted the establishment of Canadian credit unions and influenced the characteristics of most Canadian credit unions; most followed the Nova Scotia model. The other factor was help from the United States credit unions, especially, after the United States Credit Union National Association
Mutual Insurance Society (CUNA Mutual) was formed in 1935 and after CUNA became an international organization in 1940. By the end of the 1930s, all provinces in Canada had credit union legislation and more and more credit unions were established. These were the beginnings of what was to be a large scale, Canadian credit union movement.

The main features of Quebec's caisse populaire, the American credit union and the Nova Scotian credit union are the following:

1 Quebec caisses populaires

A The features of the Quebec model:

(1) A co-operative administrative structure was adopted in that all members had equal rights, regardless of the size of their financial participation.

(2) A co-operative objective was emphasized, which was non-profit in orientation.

(3) Two conflicting groups -- savers and borrowers -- were associated together with preference given to savers.

(4) The joint or several personal liability of all members with respect to borrowing, which was used by the European pioneers, was rejected by Quebec caisses populaires.

(5) Shares from members were the primary source of funds for the caisse populaire.
(6) The main operation was lending for productive purposes.

(7) The territory of operation was limited to semi-rural communities, based on the parish.

(8) "Thrift" as a virtue was emphasized greatly, which led the caisse populaire to advocate, and function on the basis of, the "self-help" aspects.23

B Derivations from European models:

Desjardins incorporated the following features from European models:

(a) From the Rochdale Pioneers, he took the "one member, one vote" and "non-profit" principles;

(b) From the Raiffeisen Peoples' Bank, he took the territorial basis of organization;

(c) From the Schulze Peoples' Bank, he took the virtues of "thrift" and savings; and

(d) From the Raiffeisen and Luzzatti Peoples' Banks, he took "limited liability" and "honour loans".

C Desjardins' own improvements:

Based on these European models, Desjardins created a tripartite management structure, a deeply-ingrained financial conservatism and joined lenders and borrowers in one institution. He also used the parish as a territorial unit.24
2 American credit unions

(1) Co-operative structures.
(2) Co-operative objectives.

(3) As regards the conflict between lenders and borrowers in one institution, American credit unions gave the dominant position to borrowers. Specifically, the emphasis on the lending function was in the direction of consumer credit, almost exclusively. This was a major departure from the policies followed by European Peoples' Banks and Quebec's caisses populaires.

(4) The "common bond" of membership. This new concept was first introduced by American credit unions; it meant that a credit union should be formed among, and limited to, a group of people already linked together by some social or economic bond. The most frequent kind of common bond in the U. S. was a common occupation. Further, the credit union movement in the United States was almost entirely urban. The application of this common bond concept led to the creation of a very large number of very small societies.25

(5) Connected with their emphasis on borrowers, American credit unions insisted on collecting savings in the form of shares rather than deposits. Thus, educating their members about saving habits became more important than with Quebec caisses populaires.26
Ontario credit unions, which evolved into a real movement just after 1940, were greatly influenced by the American model. Credit unions in other provinces partly adopted the American ways, too. 27

3 Nova Scotian Credit Unions

Nova Scotia credit unions, beyond co-operative principles, objectives and structures, because of different demographic characteristics, culture and economic factors, were unique and had the following features:

(1) The "common bond of association" was de-emphasized in Nova Scotia. Credit unions tended to be based upon community, rather than upon industrial or associational, bonds.

(2) Credit unions were set up mainly in small farming or fishing communities. When the credit union movement moved to the cities, the credit unions were formed on the basis of neighbourhood. By contrast, the American credit unions were exclusively urban and associational.

(3) Lending policies were also more flexible. They were adapted to the credit needs of the community. Loan applications from "small enterprises", including farmers, fishermen, self-employed people, small businesses, co-operative societies, members of the middle classes and workers, would all be considered by the credit unions. As a
result, their lending activities were more adventurous than the straight consumer loan programme used by American credit unions.

(4) Educational efforts to develop thrifty habits among the members were less intense than was characteristic of American credit unions.  

The Nova Scotian credit union model was wholly or partly followed by most credit unions in Canada except those of Quebec and Ontario. Saskatchewan credit unions copied the Nova Scotia model.  

On Credit Union Legislation In Canada

Canada has not passed specific federal credit union legislation. In 1907, 1909-1910, 1910-1911, 1913 and 1914, Desjardins vigorously tried to get passage of federal legislation on co-operatives and credit unions. The Bill submitted in 1907 was tentatively called "An Act Respecting Industrial and Co-operative Societies", which would have regulated credit unions and other co-operatives. However, he and his colleagues failed in their attempts. The Senate concluded that federal legislation could not be considered as the matter of co-operatives and credit unions were outside of the federal Government's jurisdictional power according to Canadian constitutional law. However, the real reason probably was that the powerful retail merchants lobbied to
preclude the existence of consumer co-operatives in case they were to become competitive with them. George Keen, who collaborated with Desjardins in trying to get the federal government to pass the legislation covering co-operatives and credit unions, and who was also a pioneer in the co-operative and credit union movement of Ontario, had this to say about opposition to the proposed legislation:

The defeat of the bill was due to the organized opposition of the Retail Merchants Association of Canada. ... The opposition of the organized retailers was primarily to consumers' co-operatives, the view being repeatedly urged that they represented "illegitimate trading".

Because of this reason, Mr. R. Kenyon in his book called "To The Credit Of The People" (1976) analyzed that the failure to enact such legislation was mostly caused by Keen, for his ambition was to establish co-operative stores. This roused the shop-keepers against the proposed Act, whereas Desjardins' ambition was to form credit unions or co-operative banks. Desjardins thought so, too. He, in the next year, tried to use the other way to pass federal legislation. He attempted to avoid the objection from the Retail Merchants Association of Canada with a Bill of "Incorporation of Co-operative Banks or the People's Banks". He planned first to pass federal legislation for credit unions which, he thought, had less risk, then continued to get
passage of federal legislation for co-operatives. He failed again.

So, in Canada, the Federal Government's attitude towards having federal credit union legislation has been very negative, even when the Co-operative Credit Association Act of Canada was enacted in 1953, the Government's attitude was very cautious and reluctant.33 Meanwhile, credit union leaders were also afraid of having federal credit union legislation as they thought that such legislation could inhibit the development of credit unions.34 For these reasons, the jurisdiction over credit unions in Canada was left to the provinces. As to this fact, some people, such as Mr. Mercure and Mr. Neufeld, thought that leaving jurisdictional power over credit unions to the provinces was a mistake on the part of the federal government. Neufeld pointed out that:

...the federal government missed the opportunity to become an influential force in the regulation of what was later to become an important type of financial intermediary in Canada. The field was left to the provinces. It is true that in 1953 the federal government passed the Co-operative Credit Association Act, which facilitated credit union pooling on the national level and established that provincial centrals of credit unions and caisses populaires, ... were constitutional and could be registered under federal legislation. But this organization has constituted a relatively insignificant incursion of the federal government into the field of co-operative
credit, and the thrust of development has remained in the provincial sphere. 35

In 1962, Mercure also recommended that the Federal Government regulate credit unions/caisses populaires. 36
The Quebec Co-operative Syndicates Act 1906

The Quebec Co-operative Syndicates Act (hereafter referred to as the Quebec Act) was assented to on March 9, 1906. It was the first legislation concerning credit unions in Canada, indeed in North America. It included 51 sections and one schedule form. Structurally, this Act was relatively undifferentiated, there were few subsections etc. However, the contents covered the association principles; the incorporation of associations; the three-tiered administrative structure; meetings; share and capital; bylaws and membership; financial aspects and some general regulations.

Regarding content, the Quebec Act had the following features:

1. It did not stipulate for a Registrar of credit unions, instead, it provided for "the clerk or secretary-treasurer of the municipality" to be in charge of certain matters relating to credit unions. The function of "the clerk or secretary-treasurer of the municipality" was limited to administrerring credit union registrations and keeping various documents relating to credit unions. Basically
he/she did not have the power to interfere with the credit union's business activities.

2. It provided for the following co-operative principles:
   (1) Limited Liability
   (2) Mutual Aid
   (3) Free Membership
   (4) Democratic Control System
   (5) No Remuneration
   (6) One Member, One Vote

3. The bylaws, passed by each individual credit union/caisse populaire, played a very important role in all credit union activities.

   Section 13 provided specifically for the bylaws. It firstly stipulated that bylaws should be passed by the general meetings of credit union members.

   It also provided that the bylaws would include rules relating to six aspects.

   (1) The conditions for the admission of new active members;

   (2) The mode of payment and the amount of the instalments;

   (3) The system of book-keeping to be followed;
(4) All things generally connected with the internal government of the association;

(5) All matters concerning a class of shareholders, especially concerning auxiliary members and their rights; and

(6) The security bonds given by the person or persons handling or having the custody of the general funds of the association.

In addition, the bylaws would also define the limits of the territory within which the three co-operative associations, i.e. the consumer co-operative; production co-operative and credit co-operative, should operate; fix the value of par shares in the associations; regulate the transfer of shares; prescribe whether one-half or one-third of the members of the board of management should be replaced every year; decide the ratio of the reserve fund as a portion of the yearly profits; and decide by whom the contracts, promissory notes, cheques, drafts or documents of the association should be signed.

4 The general meeting of credit union members had powerful functions in the association.

First, the bylaws of the association were passed and amended by the general meeting. As mentioned above, the bylaws of the association could regulate almost all
association matters. Therefore, the general meeting of credit union members actually controlled the organization.

Secondly, the three-tiered administrative structure -- the board of management; the board of supervision and the committees of credit -- would be elected by the general meeting. The said boards and committee operated separately under the control of the general meeting of credit union members. The board of management was in charge of all business operations of the credit union. The committee of credit had absolute control of the loans of the credit union. The board of supervision would oversee the board of management and the committee of credit in all the details of their management. It also had the right to inspect, at any time, all the acts and the books and to require the production of the cash on hand.

Thirdly, the general meeting could also decide the dissolution of the association, reverse or approve the decisions of the board of management, and of the credit committee.

5 Among the administrative boards and committee, the board of management did not have special powers as compared to the other board and the committee, but the managers were treated differently from the other members of the board of supervision and of the committee of credit.
Sections 20 and 21 forbade the members of the board of supervision and of the committee of credit to borrow any money from the credit union they worked for, either directly or indirectly. The said members were also prohibited from providing security for any borrower. However, the Act did not place any limitation upon the members of the board of management in borrowing or securing loans.

Section 22 provided that the members in the three-tiered administrative structure would not be paid by the credit union, but, the manager could be paid for his/her services.

6 Some features of European models were retained by this Act.

Moral requirements remained conditions for membership, which could be seen as being derived from the early European models. For example, section 42 stipulated that the board of management could dismiss any member "whose private life shall be a source of scandal".

Some principles of the Quebec caisses populaires were obviously derived from European models, too.

7 As caisses populaires in Quebec had been established before the Act was passed, the Quebec Act made a special provision to account for this situation. Section 11 provided:
This act shall apply to existing associations, and shall conform their statutes, bylaws, acts and operations since their organization in so far as they are not incompatible therewith, ...

Section 49 also emphasized that co-operative associations and agricultural syndicates, which were previously constituted under the provisions of other acts, would now be regulated by the Quebec Act.

8 Section 47 made it possible for those co-operative associations and credit unions to establish federations. It provided:

Associations regularly organized under this act may freely agree to unite in a joint action to protect their common interests.

9 As the Quebec Act covered three different co-operatives according to section 1, many concrete matters were left to the bylaws of the associations. Therefore, the Act itself was fairly simple.

The Quebec Act of 1906 was not revised until 1963 when Quebec passed a new act which specifically regulated credit unions.

The Massachusetts Credit Union Act 1909

The Massachusetts Credit Union Act (hereafter referred to as the Massachusetts Act) was approved in May 21, 1909. It was formulated directly with Desjardins' help. In total it
contained 25 sections and had no schedule form. It was the first credit union legislation in the United States. It was also the first legislation in North America which dealt entirely with credit unions.

The Massachusetts Act dealt with the following matters:

1. The Bank of Incorporation was in charge of credit unions. This was consistent with the American definition of credit unions, namely that a credit union was a supplement to the banking system.65

   Sections 3, 5, 7 and 24 dealt with this matter. According to these provisions, the Bank of Incorporation was to decide upon the incorporation of credit unions. It could approve the bylaws of credit unions, whenever credit unions passed or amended them, and also supervised credit unions and their directors, committees and officers. Credit unions were also required to make an annual report to the bank commissioner.

   The bank commissioner according to the Massachusetts Act obviously had wider powers than those of the clerk or the secretary-treasurer of the municipality in the Quebec Act.

2. The Massachusetts Act provided for a clear definition of credit union and for credit union powers.

   Section 1 declared that a credit union was a
co-operative association formed for the purpose of promoting thrift among its members. "Thrift", therefore, was one of the features of American credit unions.

Credit union powers were very simple: to receive the savings of members in payment for shares or on deposit; to lend to members at reasonable rates, to invest the funds so accumulated and undertake any activities relating to the purpose of the credit union as its bylaws authorized.\(^{66}\)

Connected with credit union powers, section 15 provided:

> The capital, deposits and surplus funds of the corporation shall be either lent to the members for such purposes and upon such security and terms as the credit committee shall approve, or deposited to the credit of the corporation in savings banks or trust companies incorporated under the laws of this commonwealth, or in national banks located therein.

3 The Act listed the details for which the bylaws should prescribe.\(^{67}\) It provided that the bylaws should regulate the conditions of residence or occupation which qualify persons for membership. This provision was fully based on the American credit union characteristic of "common bond". Unlike the Quebec Act, the Massachusetts Act did not give the power to the bylaws to regulate the allocation of the surplus of credit unions.

4 The three-tiered administrative structure was adopted by the Massachusetts Act.
Similar to Quebec caisses populaires, the general meeting of credit union members could decide every important matter of the credit union under the "one member, one vote" and the "no proxy" principles.\footnote{68} The board of directors, the credit committee and the supervisory committee were to be elected by the members, too.\footnote{69}

However, the board of directors in Massachusetts credit unions had wider powers regarding credit union operations, and other activities, than those of the board of management of Quebec caisses populaires. It could decide whether or not a special meeting of the members should be held;\footnote{70} determine the rate of interest which should be allowed on deposits; fill vacancies in the board of directors or in the credit committee until the next election; and make recommendations to general meetings of the members relative to the amount of entrance fee, the maximum number of shares which might be held by and the maximum amount which might be lent to members, the dividend to be declared, the method of making amendments to the bylaws and so on.\footnote{71} The board of directors could influence the credit committee affairs. It could fill vacancies of the credit committee and when applicants for loans wanted to appeal the decision of the credit committee, they could go to the board of directors.\footnote{72}

The supervisory committees of Massachusetts credit unions possessed strong and independent powers over credit
union operations. Beyond the inspection of the financial aspects of credit unions and the acts of the board of directors, credit committee and officers, it might, by a unanimous vote, suspend the credit committee or any officer elected by the board of directors, and, by a majority vote, call a meeting of the shareholders to consider any violation of the Act or of the bylaws. The supervisory committee could fill vacancies in their own number until the next annual meeting. It could audit credit union expenses and make a report to the directors. It was the supervisory committee which was responsible for securing a verified annual report for the bank commissioner.

The members of the board and committees could not receive renumeration from the credit union except for those officers elected by the board of directors. The members of supervisory and credit committees could not borrow money from the credit union, either. These provisions were similar to the Quebec Act.

5 A guaranty fund was to be set aside to meet contingencies and losses in the credit union’s business. This was similar to the function of the "reserve fund" in the Quebec Act.

Section 22 provided that 20% of the net income would be set aside for a guaranty fund. When the fund equalled or
exceeded the amount of capital stock actually paid in, the board of directors might recommend that the credit union decrease, or under other circumstances increase, the proportion of profits to be set apart as a guaranty fund. The rate of 20% of the net income as a guaranty/reserve fund influenced other credit union legislation on the matter of reserve funds later. All entrance fees were to be added to the guaranty fund.

6 On membership, the Massachusetts Act contained a provision respecting a minor member; a minor was entitled to deposit monies and own shares in a credit union.

The Act added two other conditions to those provided in the Quebec Act for expelling a member; namely, the person who habitually neglected to pay his debts or deceived the credit union with regard to the use of borrowed money might be expelled from the credit union. The Act also provided for the manner of disposing of the property of the expelled member.

The Co-operative Credit Societies Act of Ontario 1922

On June 13, 1922, The Co-operative Credit Societies Act of Ontario (hereafter referred to as the Ontario Act) was assented to. Although the Act was not proclaimed by the Lieutenant-Governor-in-Council until 1928, it illustrated
some features of Ontario credit union movement. The Ontario Act contained 56 sections and two schedule forms. Structurally, it was divided into 19 parts with subtitles.

Regarding content, this Act had the following features:

1. The Government of Ontario had more powers over credit unions by law than was the case elsewhere. This was embodied in three aspects.

(1) The Minister in charge of credit unions on behalf of the Lieutenant-Governor-in-Council could administer many activities of credit unions. These powers covered the incorporation of credit unions; the registered offices of credit unions; the names of credit unions and name changes; approval of the rules of credit unions and amendments to those rules; the loans from credit unions to other corporations which had deposits in credit unions; the inspections of credit unions according to the requirements from the credit union members; the reception of credit unions' returns and the dissolution of credit unions.

(2) Besides the Act, the rules of credit unions were to be approved by the Minister, and be under the supervision of the Minister. The Government would make the Regulations respecting the procedure and forms to be adopted in carrying out the provisions of the Ontario Act.
(3) On the matter of cancellation and suspension of credit unions, the Lieutenant-Governor-in Council would make such decisions.

2 The Act was made with the following principles in mind:
   (1) The making of loans to members with or without security.
   (2) Limited liability.
   (3) Service only to members.
   (4) Limited territory membership.
   (5) One member, one vote; and vote by proxy allowed.
   (6) Remuneration to the officers of credit unions allowed.
   (7) Democratic control system.

3 Contents of the rules, made by credit unions to manage the affairs of credit unions, were a little wider. The rules actually were similar to the bylaws in the Quebec Act and the Massachusetts Act, but used different names.

   The rules provided for the matters mentioned in Schedule "B", which was added to the end of the Act, and for the incorporation of credit unions; the profits being appropriated to any purposes stated in the Act; the maximum number of shares which might be held by a member of a credit union; the maximum amount which might be deposited by, or
loaned to, a member; the maximum amount which a credit union might receive on deposit;\textsuperscript{100} the number of shares and the value of the shares\textsuperscript{101}; the manner by which to increase the capital of credit unions;\textsuperscript{102} the time and places for the annual meetings of credit unions;\textsuperscript{103} and the solution of disputes between members, which involved less than $100.\textsuperscript{104}

4 The Desjardins' three-tiered administrative structure was adopted with few changes.

However, the names of the three boards/committees were different. The Act used the board of administration instead of the board of management/directors; the board of credit instead of the committee of credit; and the board of supervision instead of the committee of supervision.

The board of credit not only had a duty to consider and approve all loans of the credit union, but also was responsible for the investments of funds of the credit union.\textsuperscript{105}

The board of supervision had only two members. Its duty was to examine and audit the books of the society and deposit books of the members; to supervise the operations of the committee and board of credit and to check the cash investments and securities of the society.\textsuperscript{106}

The president of the credit union was an exofficio member of the boards of credit and supervision.\textsuperscript{107}
The members of the boards of credit and supervision could not borrow money from the credit unions in question.

5 10% of yearly net profits of a credit union were to be set aside as a guarantee fund to meet losses.\textsuperscript{108}

6 There were conditions by which the Lieutenant-Governor in-Council could cancel or suspend a credit union. They included where:

(1) the number of members of the credit union was reduced to less than ten;

(2) the establishment of the credit union took place by fraud or mistake;

(3) practically, the credit union ceased to carry on business;

(4) the existence of the credit union was for illegal purposes; or

(5) the credit union wilfully violated the Act.\textsuperscript{109}

7 There was a provision for the membership status of persons under 21 years old. These persons could enjoy all the rights of a member according to the rules of the credit union except the right of becoming members of the three boards.\textsuperscript{110}
The Nova Scotia Credit Union Societies Act 1932

On April 18, 1932, the Nova Scotia Credit Union Societies Act (hereafter referred to as the Nova Scotia Act) was passed. It included 51 sections, but no schedule form.

The Nova Scotia Act contained the following features:

1 There was a much clearer and more appropriate credit union definition.

The Act provided that the credit union was a co-operative credit society, limited to groups (of both large and small membership) having a common bond of occupation or association or to groups within a well defined neighborhood, community or rural district or fishing village, organized for the two-fold purpose of promoting thrift among its members and creating a source of credit for its members at legitimate rates of interest for provident and productive purposes. The definition showed that the credit union was:

(1) a co-operative;

(2) for two-fold purposes: promoting thrift among members and making loans to members, with legitimate rates of interest, for provident and productive purposes;

(3) based on community and common bond membership.

2 The Government had strong powers of supervision over credit unions.
This feature was embodied in two aspects.

(1) The Governor-in-Council had responsibility over more credit union affairs. This can be seen from sections 3, 4, 6, 8, 41, 50, 51. Although the Governor-in-Council could appoint a few officers, such as the assistant Registrars, for enactment of the Act, and could fulfil his/her duties through the Registrar, who should be the Registrar of joint stock companies appointed under the Nova Scotia Companies Act,\textsuperscript{112} however, the Act required the Governor-in-Council to be responsible for certain matters, for which in the other Acts above, there was no responsibility.

(2) The Government as represented by the Governor-in-Council and the Registrar could make rules and regulations to control credit union activities.

The Act did not make any provisions regarding the making, or the contents, of the bylaws of credit unions, except for the rules, regulations, forms and orders made by the Governor-in-Council for the purposes of administering them. Sections 6 and 8 conferred on the Governor-in-Council the power to make, alter, amend, add to or repeal the rules, orders and forms for the purpose of giving full effect to the Act. Section 9 provided that:

\begin{quote}
The rules and regulations prescribed by the Governor-in-Council shall, so far as applicable, be the regulations of a credit union... The rules and regulations shall be supplied by the Registrar to
\end{quote}
persons applying therefor (emphasis added).

Section 10 required that the rules mentioned above should bind the credit union and all members. Even though credit unions might make their own rules other than those prescribed by the Governor-in-Council, but, the Act did not use the term "bylaws" to describe the rules that the credit union might make. Further, it required the credit union to adopt all or any of the rules set down by the Governor-in-Council. Therefore, the rules and regulations had considerable effect in controlling credit unions.

3 The Act covered the following principles:

(1) Loans only for provident and productive purposes.
(2) Limited Liability.
(3) Free membership.
(4) Democratic control system: three-tiered administrative structure;
(5) Service only to members.
(6) Lower return on capital.
(7) No renumeration to the members of the board and committees except the member(s) of the board of directors who was/were elected to be the treasurer, clerk or general manager.
(8) One member, one vote and no proxy.
The Act gave credit unions much wider and flexible powers to operate their business.

(1) Credit unions could offer more services.

Section 12 provided that credit unions could receive the savings of their members either as payment on shares or as deposits; make loans to members exclusively or with the consent of the Registrar to co-operatives or other organizations having membership in the credit unions; deposit in chartered banks; invest in the paid up shares of building and loan associations or of other credit unions or for trust funds; borrow money; draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, and other negotiable or transferable instruments.

(2) The reserve fund would receive 20% of yearly net earnings, the entrance fees and fines. It was a reserve against bad loans. It should be kept liquid and intact and should not be disturbed except on liquidation.

(3) The Nova Scotia Act provided for a strict procedure for credit unions to borrow money. First, a credit union could borrow money up to an amount equal to 50% of its capital, deposits and surplus with the resolution of the board of directors and the consent of the Registrar. Secondly, in order to borrow money in excess of 25% of its
capital, deposits and surplus, the credit union should request to have a general members’ meeting confirm the resolution of the board of directors with a vote of not less than three-quarters of the members present and voting at the meeting.123

(4) Loans to members from the credit union, if less than $50, would be issued without security on the cognizance of borrower. In principle, the members of the board and the committees should not borrow from the credit union. However, the Act made an exception in that if two-thirds of the other members of the board of directors, credit and supervisory committees sitting together approved, those members could borrow from the credit union.124

5 There was a provision specifically for credit union’s tax position.

Section 47 provided that:

The personal property of a credit union shall be exempted from taxation for local and municipal purposes.

This was the first time that credit union legislation declared the credit union’s privileged taxation position.

6 The Act provided in a concrete way on some other matters. For example, the value of par shares should not exceed $10;125 the value of buildings and land that a credit
union could own for its purpose could reach a maximum of $5,000; the entrance fee for each member was set at 25 cents; every member should own at least one share; the rate of loan interest should not exceed 1% a month and so on. This showed that credit unions in Nova Scotia at that time were controlled by the Act and the Government quite closely.
FOOTNOTES FOR CHAPTER 1


2. See, the introduction to Raiffeisen Peoples' Bank in Part I, Chapter 1 of this thesis.

3. See, later Rochdale-model co-operative movements in many countries became identified with labour and socialist movements, or with agrarian movements, which gave them less Utopian and paternalistic characteristics. Also see, J. Carroll Moody and Gilbert C. Fite, The Credit Union Movement: Origins And Development 1850-1970, University Of Nebraska Press, Lincoln, 1971, at 1.


5. Supra, note 1, at 308-30.


11. Supra, note 9; and see, Fred McGuinness, 10 To 10: Canadian Credit Unions...From 10 Cents To 10 Billion Dollars In 75 Years, Southam Murray, Toronto, Ontario, 1976, at 3-4.


14. Supra, note 3, at 10. The authors said:

Neither of these organizations was co-operative, however, because money was contributed or borrowed from the more fortunate for the benefit of the poor.

15. McGuinness, supra, note 11.

16. Ibid., at 6.

17. Supra, note 13, at 16.


19. See, Ron Kenyon, To The Credit Of The People, the Ontario Credit Union League Limited, the Hunter Rose Company, Canada, 1976, at 10.

20. See, Gilles Mercure, Credit Unions And Caisses Populaires, working paper prepared for the Royal Commission on Banking and Finance, Nov. 1962, at 26-7. The Antigonish Movement's program focused on the economic problems of small people and the education of small people to solve their problems by themselves.

21. Supra, note 19, at 13. Mr. Kenyon thought that CUNA Mutual had a major impact on Canadian credit unionism.

22. Supra, note 20, at 26. Mercure said that the credit union representatives from the United States were influential in the formation and the development of Canadian credit union movement.

23. Ibid., at 5-8.


25. According to Mercure's analysis, most of American credit unions were small in size with less than $200,000 of assets before 1962. However, a very large number of such small credit unions were created in the U. S. in order to
be able to reach a substantial part of the population. Mercure, supra, note 20, at 25.


27. For example, British Columbia; Alberta and Manitoba. Ibid., at 29, 35, 38-9.

28. Ibid., at 27-8.

29. See, Part I, Chapter 2 of this thesis.

30. Supra, note 13, at 19.

31. Supra, note 19, at 6-7.

32. Ibid., at 8-9.

33. See, Part III, Chapter 3 of this thesis.

34. Supra, note 20, at 182.


36. Supra, note 20, at 182-3.

37. See, S.Q. 1906, c. 33, ss. 1, 2, 5, 12, 14-22, 24, 25, 28-30, 41.

38. Ibid., ss. 3-7, 11.

39. Ibid., ss. 14-21.

40. Ibid., ss. 24-28, 30-31.

41. Ibid., ss. 8-10.

42. Ibid., ss. 12-13, 41-44.

43. Ibid., ss. 32-38.

44. Ibid., ss. 11-12.

45. Ibid., ss. 13, 17, 34, 39.

46. Ibid., s. 2.

47. Ibid., s. 5.
48. Ibid., ss. 12, 41.
49. Ibid., ss. 14-21, 25, 28-30.
50. Ibid., s. 22.
51. Ibid., s. 24.
52. Ibid., s. 1.
53. Ibid., s. 8.
54. Ibid., s. 10.
55. Ibid., s. 14.
56. Ibid., s. 38.
57. Ibid., s. 45.
58. Ibid., s. 27.
59. Ibid., ss. 14-18.
60. Ibid., s. 21.
61. Ibid., ss. 19-20.
62. Ibid., s. 28.

63. Compared with the function of the board of directors of credit unions in other provinces, the board of management of Quebec caisses populaires did not have power to control or influence the other two committees in the three-tiered administrative structure.

64. Supra, note 13, at 20-1.

65. See, R. F. Bergengren, Co-operative Banking, at 2-3. Bergengren held that:

The credit union is based on the theory that the banking system needs supplementing by the development of a plan which will specialize in the smallest individual units of saving and, at the same time, concern itself with problems of small credit, collectively of great importance, but individually so
small that existing banking facilities cannot cope with them except at substantial loss.

67. Ibid., s. 6.
68. Ibid., ss. 8-9.
69. Ibid., s. 9.
70. Ibid., s. 8.
71. Ibid., s. 10.
72. Ibid., s. 11.
73. Ibid., s. 12.
74. Ibid., s. 20.
75. Ibid., s. 24.
76. Ibid., s. 17.
77. Ibid., s. 14.
78. Ibid., s. 18.
79. Ibid., s. 19.
80. See, S.O. 1922, c. 64, s. 1(1).
81. Ibid., ss. 3-4.
82. Ibid., s. 11.
83. Ibid., ss. 13-15.
84. Ibid., ss. 1(g), 20.
85. Ibid., s. 24.
86. Ibid., s. 46.
87. Ibid., s. 47.
88. Ibid., s. 49.
89. Ibid., ss. 54-55.
90. Ibid., s. 48.
91. Ibid., s. 5.
92. Ibid., s. 14.
93. Ibid., ss. 24, 30.
94. Ibid., s. 26.
95. Ibid., s. 25.
96. Ibid., s. 34.
97. Ibid., ss. 31-34.
98. Ibid., s. 7.
99. Ibid., s. 20.
100. Ibid., s. 21.
101. Ibid., s. 22.
102. Ibid., s. 23.
103. Ibid., s. 42.
104. Ibid., s. 45.
105. Ibid., s. 32.
106. Ibid., s. 33.
107. Ibid., ss. 32-33.
108. Ibid., s. 29.
109. Ibid., s. 48.
110. Ibid., s. 10.
111. See, S.N.S. 1932, c. 11, ss. 2(b), 19.
112. Ibid., s. 2(d).
113. Ibid., s. 11.
114. Ibid., s. 12(b).
115. Ibid., ss. 14(a), 17.
116. Ibid., ss. 19, 40.
117. Ibid., s. 30.
118. Ibid., s. 33.
119. Ibid., s. 23.
120. Ibid., s. 21.
121. Section 12 of the Nova Scotia Credit Union Act 1932, provided that credit unions could make loans to the co-operatives which were members of credit unions. However, section 27 of same Act provided that credit unions on principle should not make loans to those co-operatives unless the Registrar had given his consent to such loans.
122. Supra, note 111, s. 32.
123. Ibid., s. 35.
124. Ibid., s. 37.
125. Ibid., s. 14.
126. Ibid., s. 18.
127. Ibid., s. 19.
128. Ibid., s. 19.
129. Ibid., s. 33.
CHAPTER 2 -- PART I: A SHORT INTRODUCTION TO THE LEGISLATIVE ENVIRONMENT OF CREDIT UNION MOVEMENT IN SASKATCHEWAN

When credit unionism spread throughout eastern Canada and the United States before the 1930s, people in the west knew very little about credit unions. On the matter of loans for farmers and ordinary workers, people still pursued old ways, even though it was often very hard to obtain loans from banks, mortgage companies and private persons. However, a few measures were tried. For example, in 1913, the Saskatchewan Farm Loan Board, a publicly owned bank, was formed in accordance with the Saskatchewan Agricultural Credit Commission's recommendation to the provincial government. It did not operate very well because of its lower interest rates policy. In 1923, Dr. Marshall Tory, the person appointed by the Federal Government to examine provincial agricultural credit, suggested for the first time that co-operative credit sources be used for short-term loans. However, this idea was ignored for ten years.1

Then, the Depression started. In Saskatchewan, the economy of farmers fell to its worst position ever. The drought made problems worse. The depression also reflected on the business conditions and financial markets. Over a period of a few years, many branches of chartered banks in Western
Canada were closed. Banks and mortgage companies reduced their lending operations. Many communities, therefore, were deprived of banking facilities. The frequency of failures of co-operatives was increasing and more organizations were running into operating difficulties because they experienced a lack of adequate financing to carry themselves over temporary cash shortages. Farmers and ordinary people did not have any other choice but to establish an organization as a local substitute for commercial banks.

In 1933, the Co-operative Union of Canada held a meeting in Regina. Aimed at the Saskatchewan Co-operatives' problems, the meeting passed a resolution encouraging the establishment of credit unions by enacting credit union legislation in the province. This resolution was not responded to, as people did not know of it or of the concept of credit unions. They doubted whether this kind of organization could work well under conditions prevalent in Saskatchewan and whether it could collect enough money as a financial source to operate credit union business. Therefore, the advocate of credit unionism began to pay attention to the value of education: advising people about credit unions. In 1934, George Keen, secretary of the Co-operative Union of Canada, gave a lecture on the nature and purpose of co-operative credit at a conference held by the Co-operative Trading Associations in Saskatchewan and sponsored by the Provincial Department of
Agriculture. He believed that credit unions could provide a solution to farm credit problems by combining the savings of farmers and other occupational groups in a community. Based on his knowledge of European credit unions and his experience in promoting credit unions in Ontario, Keen addressed the basic philosophy and theory of credit unionism and the importance of credit unions to farmers and ordinary people. Obviously, his message of a credit union system was well accepted by the delegates. Following considerable discussion, a resolution to "request the Saskatchewan Government to enact legislation providing for the organization of co-operative credit unions" was passed. Soon, the government responded. This was the first step in gaining credit union legislation.

In the next two years, a study of credit unions and credit union legislation in other jurisdictions was conducted. Durward Thomas was the person most involved in the preparation of the Credit Union Act of Saskatchewan. As a lawyer, he studied the legislation that had been passed in Quebec, the United States and Nova Scotia. He also researched the actual socio-economic environment of Saskatchewan and the differences between credit unions in different places. These studies would later help him a good deal to argue for the establishment of credit unions in Saskatchewan and also aided him in the legislative drafting process.

In 1936, the propitious moment to promote credit unions
through the passing of a **Credit Union Act** finally came. At the third annual Conference of Co-operative Trading Associations held on June 28 and 29 of that year, a resolution urging the Government of Saskatchewan to appoint an organizer of credit unions and to appropriate an adequate sum annually for encouraging the development of credit union was adopted. The resolution stated that:

Credit is one of the most pressing problems confronting the people of Saskatchewan and credit unions offer many facilities for the solution of this problem, and

The Governments of Quebec, Nova Scotia and Wisconsin appropriate $20,000 and $10,000 respectively each year to assist with credit union development...7

Subsequently, a committee of five members was appointed to sponsor the resolutions on organizing credit unions and to take such steps as were deemed expedient for the organization of credit unions.8 Three months later, a brief on prospective legislation was ready to present to the cabinet. On April 16 of 1937, the first **Credit Union Act** of Saskatchewan was assented to by the legislature. After the legislature approved the Act, on June 18, the Governor-in-Council accepted the **Standard Bylaws of Credit Unions** and **The Table of Fees To Be Paid To The Registrar**, submitted by the Minister of Agriculture, according to the requirements of section 10(1) and section 73 of the **Credit Union Act** of 1937
(hereafter referred to as the 1937 Act). The Act was proclaimed into law on June 30 of the same year.

Three years later, B. N. Arnason, in charge of Co-operatives and Credit Unions of Saskatchewan since 1936, pointed out of the importance of having a credit union act as being:

(1) to describe uniform organizational procedures of operating practice;

(2) to provide assurances that recognized credit union methods as outlined in the legislation will be enforced; and

(3) to provide a corporate body providing for limited liability on the part of the members but which, at the same time, has recognized authority to acquire, own, administer and dispose of property.

In general terms, this sets out the significance of enacting the Credit Union Act in Saskatchewan and elsewhere.

As a result of the 1937 Act six credit unions were established by the end of 1937. All of them were in urban areas, probably because the Depression did not strike equally hard at all groups and regions of Canada.10

Thus, Saskatchewan for the first time had a legal and formal co-operative organization: the credit union. Before that time, some informal credit unions existed in the province. In 1906,11 a group of Jewish colonists living at Edenbridge, approximately 20 miles north east of Melfort, organized a co-operative credit union, called "The Jewish
Co-operative Credit Union". They initially borrowed $1,000 from The Jewish Colonization Association of Canada for assisting their members with small loans with interest rates at the same level as that charged by the banks. It dissolved as the settlers became self-supporting. This credit union is generally regarded as the first one in the province after its existence was discovered in 1962. Also, it was the first rural credit union in Saskatchewan. Before it was discovered, a Caisse Populaire of Albertville, near Prince Albert, established in 1916, had been considered to be the first demonstration of co-operative financing organization. However, these two credit unions were a kind of mutual-help group, stimulated by local collective action, and somewhat different from the ones established in and after 1937.

A Committee of five played a key role in drafting the 1937 Act. The committee continued to act as a provincial advisory and co-ordinating committee for credit unions after the Credit Union Act was placed on the statute books. The first suggestions for amending the 1937 Act came from the first informal credit union gathering which took place on June 22, 1938, during the conference of the Co-operative Trading Associations.

On the matter of changing the Act, the records show that:
1 the Federation/League or later the Central presented suggestions on changing the law to the Department of Co-operation and Co-operative Development of Saskatchewan;14

2 the Department would consider these suggestions and arrange meetings with the Federation/League to discuss them and to pass them on to the Legislature;

3 then, each credit union of Saskatchewan would be given a circular outlining the amendments made to the Credit Union Act from the recent session of the Legislature with the comments added by the Registrar on the amendments; and,

4 the credit unions would study an outline of the amendments and give their opinions to the Department.15

The Credit Union Federation of Saskatchewan (hereafter referred to as the Federation), was originally established on May 27, 1938. It was legalized in 1941 and in 1948 was renamed the Credit Union League of Saskatchewan (hereafter referred to as the League). The Federation and the League played a very important role in the amendments to the Credit Union Act of Saskatchewan.
The formal name of the legislation on credit unions is *An Act Respecting Savings and Credit Unions*. It has been cited as *The Credit Union Act*, in Saskatchewan since 1937.

The act has been amended and revised many times. According to their revisions, the history of the Act can be divided into 6 developmental stages:

(1) 1937-1947;
(2) 1948-1955;
(3) 1956-1961;
(4) 1962-1971;
(5) 1972-1984; and,
CHAPTER 2 -- PART II: THE CREDIT UNION ACT, 1937 — The Legal Evolution During The Period 1937-1947

Until the 1937 Act was revised in 1948, it had been amended six times. Following the development of credit unions, the 1937 Act was amended as to content and emphasis was placed on the different aspects of credit union movement.

The 1937 Act

The 1937 Act contained 78 clauses and two samples of the schedule forms. Form A was the Schedule of the Memorandum of Association and Form B was the Certificate of Incorporation. Generally speaking, the content of the 1937 Act can be divided into the following parts:

1. the procedure to organize a credit union;
2. the structure of a credit union organization;
3. the distribution of a credit union's surplus;
4. the inspection of credit unions by the Registrar;
5. the dissolution of a credit union; and,
6. some general regulations.

Regarding the technical legal structure, the Act included both substantive law content and procedure law content.

Part 1 covered sections 4-15, which included provisions
dealing with the Registrar, Incorporation, Name, Bylaws and Capital And Shares.

In this regard, two points can be made.

Firstly, to incorporate a credit union, the 1937 Act required that they should be at least ten people as the first incorporators and that they must be residents of Saskatchewan.16 This number varied in the provinces and elsewhere.17 This requirement for a basic number of incorporators had the following features:

(a) It was necessary for a credit union to have a certain number of members in order to collect the amount of money needed to fulfill the task of operating a credit union. One of its main objects, according to section 18(b) of the 1937 Act was to make loans to its members. Under section 11, the capital of every credit union, although unlimited in amount, was to be divided into shares of a par value of $5 each. During the Depression it was very difficult for credit union members to buy more credit union shares, because for most of them the reason for establishing or joining credit unions was to obtain loans. Actually, during the first few years of Saskatchewan credit unionism, although the number of credit union organizations increased, the assets did not grow very much.18 Therefore, even though there was a ten member minimum requirement, financial shortages for credit unions existed for a long time.
(b) Credit unions, at that time, were small local groups, and some credit unionists believed that credit unions should be operated on a small scale in order that the democratic principle would work well.

Consistent with the provision for a minimum number of members were: section 14(3), which provided for assignment, transfer or re-purchase of the credit union shares approved or authorized by the directors; section 45, which provided for the minimum membership of a credit union; and, section 70(c), which dealt with the conditions for dissolving credit unions. These sections were also based on having ten members.

One other thing should be noticed, namely the bylaws of credit unions. Section 10 provided for a set of the standard bylaws, prepared by the Registrar and approved by the Lieutenant Governor-in-Council, and permitted supplemental bylaws to be passed by each credit union. All of the members of a credit union were to comply with the bylaws, because there was a hypothetical contractual relationship between the bylaws and the members according to the provision of section 59. As we know, bylaws are the rules for the internal governance of an organization. In the bylaws, many concrete affairs of the credit union are stipulated, especially in the supplemental bylaws. As an example, the 1937 Standard Bulaws gave directors, the credit committee and the supervisory committee a good deal of power, consistent with the 1937 Act,
in all aspects of the credit union's activities. Later, when credit unions grew stronger, the legislation on credit unions left more to be provided for in the supplemental bylaws.  

Part 2 covered Objects and Powers; Organization; Duties of Directors, Credit Committee and Loans; Supervisory Committee; Membership and Meetings; Obligations of Officers and Members and Borrowing Powers.

The 1937 Act, unlike some other provincial legislation, did not have a clause defining a credit union. Rather, it described the nature of a credit union in sections 17 and 46. The former referred to the objects of a credit union as being:

... the promotion of thrift among its members and the creation of a source of credit for its members, at legitimate rates of interest, exclusively for provident and productive purposes.  

The latter provided for a credit union's membership as follows:

The membership of a credit union shall be limited to groups of persons having a common bond of occupation or association, or to groups within a well defined neighbourhood, community, rural or urban district.

These two parts originally came from the definition clause of the Nova Scotia Credit Union Society Act 1932 (hereafter referred to as the Nova Scotia Act). The membership clause at that time was quite strict. It could not extend to other business organizations, as it did later, the exception being
to "any other credit union". Further, it was forbidden to lend money to or accept deposits from any non-member.

The three-tiered control structure designed by Desjardins and first used successfully in Quebec was adopted by the 1937 Act. To ensure the operation of a credit union, the 1937 Act provided for the duties of the members of the board of directors, the credit committee and the supervisory committee. It also contained a rule respecting handling of money by the officers and employees.

Part 3 mainly embodied sections 40-44.

The Act divided the surplus of a credit union into three parts:

(i) a reserve fund;
(ii) an educational fund;
(iii) dividends.

To protect credit unions from bad loans or losses, the 1937 Act provided for 20% of the net earnings to be set aside as a reserve fund and required that the fund "should not be disturbed except on liquidation". However, from the records of 1938-1949, this reserve fund rule was not followed very well in practice. Therefore, detail was added to the reserve fund regulation to consolidate the matter after 1944.

5% of the net earnings were to be retained as an
educational fund. The order of surplus distribution in the 1937 Act was provided for in section 43:

If the bylaws so provide, the board of directors may, after making provision for a reserve fund and before declaring a dividend, set aside an amount not exceeding five per cent. of the net earnings in a special fund which shall be used for such educational purposes as the directors may determine. (emphasis added)

Therefore, the educational fund was placed in a fairly important position at this time. The remaining amount of net earnings could then be used for dividends. As the credit unions of Saskatchewan were financially weak during the time the 1937 Act was in force, the regulations on the distribution of the surplus were simple and general.

In the other three parts there is nothing special to be mentioned excepting that section 77 provides as follows:

Credit union may agree to take joint action for the protection of their common interests, in the form of federation, the activities and operations of which may cover all or a portion of the province... (emphasis added)

This provision was suggested by A. B. MacDonald, a founder of the first credit union in Nova Scotia, when the 1937 Act was being drafted. It was taken directly from the models of the Massachusetts and Nova Scotia. This practice later proved to be very necessary for the credit union movement. However,
the "federation" during that period was only allowed to act within the province.

The 1939 Amendment

From 1937 to 1939, the credit union movement in Saskatchewan did not develop very much. Within these two years, there were only 24 credit unions established in the province. Even though the number of established credit unions was not great, the Government inspector of credit unions, Mr. A. C. MacLean, still felt quite satisfied with what the credit unions had achieved. However, the development raised the question of modifying the legislation to adjust credit union aims to suit the changed circumstances. Therefore, the 1939 Amendment was assented to in April 1 of that year. The 1939 Amendment did not make substantial changes to the 1937 Act.

To give credit unions more flexibility in their operations, section 18 of the 1937 Act which dealt with the objects and powers of a credit union, was amended by inserting the following:

(a) receive the savings of its members either in individual or in joint accounts, and either as payment on shares or as deposits.

(d) deposit in chartered banks in Canada, and, with the written permission of the registrar, in post office savings banks
or with trust companies authorized to receive money on deposit;... 

Section 3 of the 1939 Amendment modified section 32 of the 1937 Act by making it possible for directors, officers or members of the credit or supervisory committees to borrow money in excess of the value of their shares and deposits and accumulated earnings from the credit unions to which they belonged. The Nova Scotia Act already contained such a flexible clause from the beginning of credit union establishment in that province.

The 1941 Amendment

There were three new sections and one new schedule form in the 1941 Amendment.

The Federation finally obtained its legal status in the 1941 Amendment. The new section 77 provided, in a detailed way, with 6 subsections, for the purposes and procedures of establishing a federation of credit unions. It was interesting that the organization of the federation was also based on having 10 or more credit unions as the incorporators. It declared that organizing a federation was for the furtherance of the common interests and benefit of all credit union members. From the 9 clauses of section 77(1), amended in 1941, it is possible to discern the function of the federation. It was mainly to help credit unions in their social and economic aspects. It would carry
on educational work relating to credit unions; improve the management methods of credit unions; receive credit union moneys and make loans to them, etc. In practice, it did even more. For example, when the "St. Gregor Savings and Credit Union event" happened in the early 1950s, it was the Federation (actually, by that time, the League) which passed a resolution for collecting money from credit unions all over the Province which would be sufficient to re-establish the St. Gregor Credit Union, with no loss to its members.

In 1941 the Saskatchewan Co-operative Credit Society Limited (hereafter referred to as the Society) was organized to facilitate the movement of funds between credit unions and to provide credit to other co-operatives. Therefore, there was one new provision in the 1941 Amendment to provide for the credit union to be a member of the Society.

Consequently, section 18 of the 1937 Act, after having been amended in 1941, allowed credit unions to deposit and invest in the Federation and in the Society.

The mid-1940s was a period of economic improvement, war-time and government changes for Saskatchewan. During this period, the credit union movement in Saskatchewan made a great leap forward in its development. Take 1947 as an example; the total number of credit unions jumped to 194 (compared with 72 in 1941), and the amount of loans made to credit union members was $4,649,149. As a result,
amendments to the 1937 Act were more frequent. Between 1944-1947, the Act was modified once a year with the contents becoming wider and more flexible for credit union activities.

The 1944 Amendment

The emphasis of the 1944 Amendment was on the disposition of the reserve fund. Sections 3, 4 and 5 of the 1944 Amendment dealt with this matter. The words "until the reserve fund is at least equal to ten per cent. of the assets from time to time of the credit union" were added to section 40 of the 1937 Act which provided that 20% of net earnings should be retained as the reserve fund. Obviously, this new provision gave the credit unions more flexibility. Namely, when a credit union’s reserve fund became equal to 10% of its assets, it was not necessary for the credit union to hold 20% of net earnings in the reserve fund. Might more surplus retained be used for other purposes, such as dividends? Why was this flexibility provided? Most credit unions could not strictly abide by sections 40-42 of the 1937 Act and credit unions started to change their policy regarding returns on capital when the competition from other financial organizations became more entrenched. It is difficult to say which is the more influential factor.

Another change in the 1944 Amendment was to section 18(d) and (e) of the 1937 Act. It was provided that credit
unions did not need permission from the Registrar to deposit money in post office savings banks and that the Federation was no longer the place for credit unions to deposit funds.43

Section 48 of the 1937 Act was added to with a provision stating the limitation on minors who were members. It was provided that:

A minor may be a member; provided that a minor shall not vote until he has reached the age of sixteen years, nor shall he be elected as a director or as a member of the credit committee or supervisory committee until he has attained the age of eighteen years; and upon attaining the age of eighteen years he may enjoy all the rights of a member.44

The 1945 Amendment

The close financial coordination between co-operatives and credit unions was a feature of the 1945 Amendment.

Under the direction of the new Department of Co-operation and Co-operative Development, formed by the CCF Government in 1944, credit union assets tripled in size to $2,449,000 in 1944. Credit unions began to coordinate more closely with co-operatives. In 1945, credit unions and other co-operatives formed the Co-operative Life Insurance Company. The modified section 47 in the 1945 Amendment provided that certain co-operatives could be members of a credit union. Subsequently, the amendment to section 18(c) allowed not only other credit unions but also co-operative marketing
associations and co-operative associations to enjoy loan services from a credit union.\textsuperscript{45} It was quite clear that the scale of the credit union movement had become quite large and that credit unions could support co-operatives' financial needs.

Meanwhile, the 1945 Amendment also changed the amount of security on loans, which would be made to its members by a credit union, from $50 to $100. The limitation on borrowing money from the credit union by directors, officers and the members of credit or supervisory committee also became looser, too.\textsuperscript{46}

The 1946 Amendment

Five sections of the 1937 Act were rewritten and a Schedule Form D was added in the 1946 Amendment.

With more members from co-operative organizations, the structure of credit unions became more complex. This was reflected in the amendment to section 23 and a new section 33. The main point was that a director of the combined credit union board should not use the position to better the interests of the association or another credit union of which he/she is a member.\textsuperscript{47}

But the most important change in the 1946 Amendment was with regard to the distribution of surplus. Generally speaking, the new arrangement of surplus increased the
benefits for members of a credit union. First, it moved the educational fund from the second rank of the 1937 Act to the third rank. After setting aside the reserve fund and the dividend, directors could determine the allocation to the educational fund, instead of the order: reserve fund; educational fund; and, dividends in the 1937 Act. The idea to establish the educational funds in credit unions was based on the social function of credit unions. Obviously, this function was confirmed by, and developed in, the Antigonish Movement of Nova Scotia. To move the educational fund back in terms of priority meant that credit unions started to pay more attention to benefiting the members to the economic function of credit unions. Second, it provided 5% of the surplus for dividends, for which the original Act did not stipulate. Third, it added new subsections (d) and (e) to section 40 of the 1937 Act to set out a certain amounts for emergencies, estimated losses or special expenditures needed to achieve the objects of the credit union. However, they were very flexible funds because the Act also provided that:

... moneys so set aside shall be expended within three years after they are set aside, or transferred within such period to the reserve fund or paid as dividends on shares or as borrower dividends for the fiscal year... (emphasis added) 49

Subsection (e) provided another possibility for members to
gain more surplus, under the name of Borrower Dividend. It was provided that:

(e) that, after making provision for a reserve fund, the payment of dividends on shares, an educational fund, if any, and an emergency fund, if any, the remainder, if any, of the surplus be divided among the members as a borrower dividend in proportion to the amount of interest paid by them to the credit union on all loans or on specified classes of loans during the preceding fiscal year.  

The 1947 Amendment

The 1947 Amendment had five rewritten clauses and one new clause.

Around 1947, insurance services to credit unions and their members became more important in protecting them from losses. Loan Protection Insurance and Life Savings Insurance, advocated by the Credit Union National Association of the United States (CUNA), started to be used by many credit unions in other provinces. But, for a period of a few years, Saskatchewan credit unions did not want to go too quickly in this direction for various reasons. They were, as Ms. Purden analysed:

For some time, it appeared that the reluctance to purchase insurance resulted from a lack of understanding of its benefits. But, in view of the central’s information efforts, there was evidently some other factor involved. By the late 1940s, this could be identified as a growing feeling of hostility towards CUNA.
Mutual, the source of the insurance plan.\textsuperscript{51}

This was even though the Federation had been affiliated with CUNA since 1942 and had gained access to loan and savings insurance from the CUNA Mutual Insurance Society (CUNA Mutual). As a matter of fact, the 1947 Amendment had only one provision for a credit union to join a superannuation organization in order to get life insurance for its members. The new subsection (g-A) of section 18 of the 1937 Act provided that:

\begin{itemize}
  \item[(a)] a credit union can become a member in Saskatchewan Co-operative Superannuation Society or in such other organization ...
  \item{(to benefit members, employees or ex-employees of the credit union or the dependants or connections of such persons, grant benefits and allowances, and make payments towards insurance.} \textsuperscript{52}
\end{itemize}

There were also three new sections dealing with payments on the death of members in the 1947 Amendment.

On the matter of maximum individual loans being determined by the directors of a credit union, a new subsection (b-A) to section 27 of the 1937 Act limited the amount of the loans, where the terms of repayment extended over a period of more than three years, to 20\% of the credit union's combined paid up capital and deposits,\textsuperscript{53} because it was thought that credit union policy regarding loans should favour short-term loans.

The new section 72a regarding to surplus disposal by a
liquidator to the credit union membership after a credit union had paid all of its debts and liabilities provided:

72a. (1) ... the liquidator may, subject to the approval of the registrar, allow a reasonable rate of dividend, not exceeding five per cent, on the paid up capital to the shareholders on record as of the date of the instrument of dissolution.

(2) After payment of a dividend under subsection (1), any surplus remaining shall, subject to the approval of the registrar, be paid to one or more recognized local organizations or associations which have for their objects occupational or community group welfare of a benevolent, charitable or educational nature...
On March 25, 1948, the second Credit Union Act of Saskatchewan was passed. Between 1948-1955 this Act was amended seven times; i.e., each year.

The 1948 Act

The structure of the 1948 Act was similar to the 1937 Act. It contained 84 clauses. In accordance with section 84 of the 1948 Act, it came into force on the first day of May, 1948.

Regarding content, there were three important additions to the 1948 Act. They were:

1. A new provision, whereby a credit union treasurer could be authorized to grant loans to members who make applications. However, in each case, the loan amount was not to exceed the value of any paid-up shares in the credit union, held by the applicant and assigned as security to the credit union, and the market value of any stocks, bonds or securities of the Government of Canada, or of Saskatchewan so held and assigned, without submitting the application to the credit committee.54
Obviously, the intention of the provision was to facilitate and expand the lending services of credit unions and to encourage members to borrow rather than withdraw their share balances when cash was urgently needed. This provision would also facilitate the handling of loans to officials. It should be pointed out, however, that the authorization for the treasurer to grant loans up to the value of shares and government bonds was to be by resolution of a body comprised of the majority of the credit committee and the board of directors sitting together. Further, the treasurer's authority was dependent upon a unanimous decision of this joint committee. As previously noted, the treasurer's authority to make loans was limited to "an amount not exceeding the value of any paid-up shares in the credit union". This proved later to be very important for credit unions in protecting themselves from irretrievable losses.

Another new section provided that if the combined share capital and deposits of a credit union exceeded $250,000, the supervisory committee might, subject to the approval of the Registrar, recommend to the annual meeting that a qualified auditor be appointed to conduct an annual audit of the books and accounts of the credit union.

This was the first time that the Credit Union Act provided for audits of credit unions in Saskatchewan. Actually, at that time, this provision had little practical
application, because few credit unions in Saskatchewan had combined share capital and deposits of $250,000 or full-time managers. Why was this provision included then? It seems that the directors of the League felt that in larger credit unions, where the volume of business was substantial, the audit should be carried out by a chartered accountant so that the supervisory committee might be largely relieved of the work entailed in the physical check. In the early 1950s, the value of audits became apparent when serious losses were incurred by two credit unions in Saskatchewan and discovered by audits. The auditing service was to become an important credit union topic during the 1950s and '60s, but this will be discussed later under an examination of the 1952 Amendment to the 1948 Act.

3 An important amendment to section 81 of the 1948 Act allowed the League to pass bylaws provided that the territory in which the League had members was divided into districts and that such number of directors of the League as might be designated in the bylaw should be elected by delegates representing the members in such districts in such manner as to provide representation for each district on the board of directors in such number as might be designated in the bylaw should be elected by the delegates to represent the members at large and so on.

In 1948, credit unions in Saskatchewan numbered 217.
Credit union membership totalled 38,895 and credit union assets totalled $8,344,522. The idea of creating districts had been discussed for some time by the League. It was thought that as the credit union movement had enlarged, a new arrangement for the good and orderly operation of credit unions was needed.

There were no important changes in the 1949 Amendment.

The 1950 Amendment

In the 1950 Amendment, a new provision was introduced to the Credit Union Act, allowing for the amalgamation of two or more credit unions.

In his memo of November 28, 1949 to then Premier T.C. Douglas, Mr. B.N. Arnason, a former Deputy Minister of the Department of Co-operation and Co-operative Development, Government of Saskatchewan from 1944 to 1967, said:

As the number of credit unions increases, we can expect, from the law of averages, that there will be some increase in the number of relatively weak credit unions which will require special attention. In some instances, the situation can be met by the amalgamation of two credit unions.

Soon the League discussed the suggestion and recommended a provision for the amalgamation of two or more credit unions to the Department of Co-operation and Co-operative Development.
Helping weaker credit unions was one reason for having a provision concerning amalgamation. That the leaders of credit unions wanted the growth of Saskatchewan's credit unions to be sustained was probably another reason. So they mainly strengthened the existing organizations rather than forming new ones. Certainly, it was also thought later that as some credit unions had been inactive, the amalgamation of credit unions could be a good idea.

The new clause on the amalgamation of credit unions had four subsections. Three of these were concerned with the concrete obligations of the parties to be amalgamated and the procedure for amalgamating. The provision was quite important during the 1950s. Between 1953 and 1961, fifty-two credit unions ceased to operate as independent entities. Among them, twenty-six amalgamated with other credit unions in the same locality.

Section 3 of the 1950 Amendment added the clause "or in trust accounts under such conditions as are prescribed in the standard bylaws" to the words "joint accounts" in section 18(a) of the 1948 Act, which dealt with the matter of credit union powers to receive the savings of the members. What does "trust accounts" mean? The League described it as "where monies are deposited in trust on behalf of unincorporated bodies, such as Wheat Pool Committees, church parishes, etc". This addition showed that the membership of credit unions...
unions at that time was enlarged, so credit union operation ways were also more. Section 4 of the 1950 Amendment added the following clause to section 40 of 1948 Act which dealt with borrowing powers of credit unions:

Provided that a credit union may, without the consent of the registrar, but otherwise subject to the foregoing section, borrow money on the security of stocks, bonds or security of the Government of Canada or of Saskatchewan, to an amount not exceeding the market value thereof.71

Could we say that, with the extension of receiving deposits and borrowing powers, credit unions now had more self-controlled power over their own businesses? It seems that this was a sensitive question. Before the 1953 Amendment was passed, the directors of the League and the staff of the Department of Co-operation and Co-operative Development had different opinions on whether the Registrar’s consent was necessary when credit unions borrowed money on the security of stocks or bonds of the Society or other companies. The Department thought "the Registrar is desirable in order to assist credit unions to avoid over-borrowing and to maintain a liquid position".72 The League expressed the view "that these proposed additional powers may be carried out without the necessity of securing the consent of the Registrar as provided in the second paragraph of section 40".73

There were some other suggestions on the amendments to
the Act from the League on January 12, 1950, which did not become law. They were:

1 Section 42(a) of the Act now provides that at least 20% of the annual net surplus of a credit union be set aside annually for a reserve fund against uncollectible loans or losses.

2 Section 42(a) to be amended to provide that at least 5% of the annual appropriation to a reserve fund, that is 5% of the 20% of the net surplus, shall be set aside in a central share and deposit redemption fund.

3 Provision would be made for the directors of the Credit Union League to be the trustees and custodians of such fund, thus necessitating an amendment to section 81 which deals with the powers of federations such as the League.

4 The fund would be deposited with the Co-operative Credit Society or in a chartered bank or might be invested in provincial or dominion government bonds.

5 Payments out of the fund to a credit union would only be made on certificate by the Registrar that the resources of the credit union were insufficient to pay out shares and deposits in full.

6 Upon the receipt of the certificate mentioned in number 5, the credit union might receive payment up to, say, 80% of the estimated deficit after taking into consideration all available resources of the credit union.

7 As far as the St. Gregor situation is concerned, this amendment might be used to assist this credit union by (a) providing that the amendment be retroactive to January 1st of this year, and
(b) since the amendment would assure the accumulation of a considerable fund during the next few years, as for example, about $4,000 based on appropriations to reserve as a result of 1950 business, the Credit Union League might borrow from the Credit Society an amount sufficient to assist the St. Gregor Savings and Credit Union this year, thus avoiding the dissolution of this organization. The amount borrowed would be gradually retired out of further annual appropriations to the fund. 74

However, the League did not get such power to collect money from the reserve funds of credit unions as it suggested above, with which it could assist the credit union who had financial trouble. Actually this idea was realized two years later by establishing the Credit Union Mutual Aid Board (CUMAB) in Saskatchewan.

The 1951 Amendment

The main contents of the 1951 Amendment to the 1948 Act were the following:

1. The Supervisory Committee’s duties were written in a more detailed manner. From subsection(i) to subsection(iv) in section 4 of the 1951 Amendment, these duties included verification of cash and the accounts of the members; the supervision of loans, the financial statement and report prepared by the treasurer; and, the committee examination of securities. It is apparent that such duties were much more concrete than "make an examination of the affairs...audit its
books...call a meeting...consider the report...

" in section 38(a) of the 1948 Act, which provided for the Supervisory Committee’s duties.\(^{75}\)

It seems that the direct cause for this amendment was the experience with the St. Gregor and Arran credit unions.\(^{76}\) In the case of the St. Gregor Credit Union, $35,000 of its total assets of $86,000 had been misappropriated. Similarly, the members of Arran Credit Union lost $55,000.\(^{77}\) Both losses were incurred because the supervisory committee had failed to keep adequate watch over the affairs of the organization.\(^{78}\)

The legislators still did not think that the provision was safe enough. They added a clause(f) to section 38 of the 1948 Act, which required credit unions to:

...maintain a full and correct record of all proceedings of the committee in carrying out its duties under this Act and make such record available for inspection by the registrar.

This was consistent with the section 8 of the 1951 Amendment. In that section, it was provided that:

(3) When the registrar is of the opinion that the affairs of a credit union require an immediate investigation in order to safeguard the interests of the members, he may order that such investigation be made by a chartered accountant at the expense of the credit union.

(4) A report of any investigation made or ordered under the provisions of this section may be presented to a special meeting of the members called by or under the direction of the registrar.
Obviously, the function of the registrar was strengthened.

2 The potential membership of a credit union was enlarged by law. According to section 6 of the 1951 Amendment to section 46 of the 1948 Act, many corporations would be allowed to be members of a credit union. Thus, it was stipulated that:

(c)...a municipality or a municipal or public body performing a function of government;

(d) an organization operated exclusively for charitable purposes or an agricultural organization, a board of trade or a chamber of commerce...;

(e) a labour organization of society or a benevolent or fraternal society or order;

(f) a club, society or other organization operated exclusively for social welfare, civic improvement...79

The legislators had not forgotten to emphasize "non-profit" again in the Amendment.80 Yet, because the membership eligibility became so wide, some doubts about the nature of credit unions, i.e. whether they were banks or not, were raised. Even people who were inclined towards credit unions were worried. A "Memo On Extension Of Services Under The Credit Union Act, Oct. 30, 1951", from Mr. B.N. Arnason to Premier Douglas illustrates this concern. Arnason wrote:

...it would appear that if School Units or Rural Telephone Companies are to make
use of facilities of certain unions, such credit unions must be in a position to provide the same type of service as a chartered bank. This would include a chequing service with clearing house privileges...81

Later, when the credit unions and co-operatives met opposition over their constitutional status during 1953, some credit union leaders worried about this point too.82

3 The economic function of the Federations of credit union was further strengthened.83

The 1952 Amendment

A large part of the 1952 Amendment concerned the Credit Union Mutual Aid Fund (CUMAF). In section 5 of the 1952 Amendment to section 76 of the 1948 Act, 16 clauses were added. These clauses covered the following contents: the procedure for credit unions to approve the establishment of CUMAF; the procedure to establish CUMAB; the purpose of establishing CUMAF and the sources of CUMAF; the collection of CUMAF; the limitation on the amount of CUMAF; the corporate relationship between credit unions and CUMAB; money deposits of CUMAB; the condition for credit unions to get aid from CUMAF; dissolution of CUMAB and so on.84

The direct reason for establishing CUMAF, I believe, was the St. Gregor and Arran events. As Christine Purden noted:

80
...the financial crises resulting from misappropriations focused attention on the vulnerability of individual credit union organizations, and thus of the entire provincial network, to severe losses." 85

Credit unions needed a provincial reserve fund for "the purpose of protecting and stabilizing credit unions in financial difficulties and assisting in payment of any losses suffered by members of credit unions in liquidation". 86 Therefore, the establishment of CUMAF was an extremely important step in the reinforcement of local credit unions in Saskatchewan. The League played a leadership role in the establishment of the CUMAF plan. In July of 1951, a resolution requesting the establishment of CUMAF was passed at the annual meeting of the League. Before the leaders of the League made any decision, they certainly had looked at some programs in Quebec and the United States. 87

It is worth noting that, while CUMAF gave credit unions a financial boost, it also raised the question of whether the tax exempt status of credit unions would be affected. B. N. Arnason mentioned this problem to Douglas in a letter of July 15, 1952. He said:

A question has been raised as to whether the proposed mutual aid fund can be considered to be exempt from income tax under the Dominion Income Tax Act. Another question that has also been raised is whether the establishment of the proposed fund will affect in any way the tax exempt status of credit unions under the Income Tax Act.
I have discussed this matter briefly with some of the officials of the Attorney General's Department and they are giving consideration as to whether there is a need for making a specific reference to the credit union mutual aid fund in the proposed taxation agreement with the Dominion Government. 88

The 1953 Amendment

On February 27, 1953, the new amendment to the 1948 Act received assent.

In section 2 of the 1953 Amendment, section 18, Clause (a) gave credit unions the power to enter into contracts with members regarding share investment up to an amount designated in the contract. According to the record, this change was brought about by a proposed province-wide Teachers Federation Credit Union. The Teachers Federation Credit Union could enable its members to contract for share investments which were to be insured, thus creating in effect an endowment share investment plan similar to one in use at the time by the B.C. Teachers Federation Credit Union. This statutory provision was for the purposes of clarification only. 89

In section 3 of the 1953 Amendment to section 23 of the 1948 Act, the procedure for electing the members of the Supervisory Committee of a credit union was changed. One member of the three member Supervisory Committee of each credit union was to be appointed by the directors instead of the members. This new provision was intended to give the directors an opportunity to appoint one member with a
knowledge of accounting while giving the members the right to appoint the majority of the Supervisory Committee. There had been considerable criticism of Supervisory Committees as their members were appointed at annual meetings with very little information as to their auditing ability. This amendment was designed to improve the quality of work of Supervisory Committees.

CUMAB was enlarged from three to five members by section 6 of the 1953 Amendment. The League was to nominate three of five members to the Board instead of one of three in the old provision. Even so, the League claimed in its letter to the Department of Co-operation And Co-operative Development that since the Society would not contribute to CUMAF, there was no reason for its representation on the Board. Obviously, the provision of "...the representative of the Credit Union League of Saskatchewan shall be chairman of the mutual aid board..." in section 76b(8) of the 1952 Amendment showed that the League occupied an important position on CUMAB.

The 1954 Amendment

On September 22nd, 1953, the League passed a new resolution for changing legislation. Convention Resolution No. 2 reads:

WHEREAS the provisions of The Credit Union Act and The Trustees Act relating to investments, prohibit the investment of funds held by
Credit Unions in other forms of co-operative endeavor,

AND WHEREAS many cooperative organizations are now seeking capital for expansion and other purposes,

AND WHEREAS many Credit Unions are desirous of assisting these cooperatives by investing funds,

THEREFORE BE IT RESOLVED: That the directors of The Credit Union League be instructed to make representations to the Government of Saskatchewan, with a view to having the necessary legislation enacted which would enable Credit Unions to invest in trust certificates of the Co-operative Trust Company, and in such other co-operative securities as may be considered advisable.

This requirement was embodied in section 2 of the 1954 Amendment, which received royal assent on March 31, 1954.

In 1954, the control structure of the League was altered to include 12 districts. Therefore, in the 1954 Amendment two clauses, section 24a "Election of Directors and Credit Committee Members by Districts" and section 24b "Effect of Election of Directors and Members of Credit Committee by Districts", were added. The credit unions' growth made it necessary to rearrange their administration. The new sections 61a and 62a were also connected with this matter.

In section 10 of the 1954 Amendment to section 80 of the 1948 Act, credit unions were required to pay their surplus subject to the approval of the Registrar, which were remained after payment of a dividend to their members, to CUMAB and some other organizations with either benevolent, charitable
or educational natures for promoting occupational or community group welfare.

On the matter of remuneration for directors and committee members, section 4 of the 1954 Amendment to section 26 provided, for the first time, the payment to those people. Generally speaking, according to the principle of "no remuneration", a credit union should not pay directors or the credit and the supervisory committee members. However, in those credit unions whose combined share capital and deposits exceeded $200,000, an exception was made to those persons for the time they actually spent on credit union business. The Act authorized a supplemental bylaw to deal with this matter.

The 1955 Amendment

On March 30, 1955, 17 new clauses were introduced to the 1948 Act and four old clauses were rewritten. These additions to the Act probably brought about the most changes over a ten year period.

The first concerned mortgage loans of credit unions. In the 1950s the emphasis on mortgage financing by local credit unions was growing. In 1954, the proportion of mortgage loans had risen to 53 per cent of all credit union loans, and it appeared that this would continue to increase. This decreased the number of small personal loans handled by credit unions.
Credit union leaders considered this as a dangerous trend, for credit unions that tied up substantial assets in long-term loans jeopardized their ability to accommodate emergencies. Also, the primary function of credit unions was to supply short-term personal loans, namely, consumer loans in small amounts. To protect local credit unions from over-extension in this field, 10 new clauses dealing with this matter were included in the 1955 Amendment. Sections 30a and 30b provided a general principle for mortgage lending in that "no loan shall be made for the purpose of purchasing land or buildings or erecting new buildings". It provided exceptions to this type of loan for personal use and certain business use. No serious limitation, except one in section 30b(2), was given to the local co-operatives' long-term loan programs even though the Society, in its resolution of December 14th, 1954, had requested a new amendment to prohibit credit unions from making loans to local co-operative associations. This had occurred because several credit unions found themselves seriously embarrassed when making loans to local co-operative associations. Sections 30c to 30e concerned limitations on loans made under sections 30a and 30b, including one which stated that the total amount of the loans should not at any time exceed 25 per cent of a credit union's combined paid-up capital and deposits; that the maximum of loans to a member should not exceed 8 percent
of the credit union's paid-up capital, deposits and surplus and, that no further loans were to be made if the reserve fund of a credit union was below 10 percent of its combined paid-up capital and deposits....

Sections 32a and 32b and sections 36a and 36b were concerned with the security of long-term loans and liabilities for unlawful and unauthorized loans. These were obviously intended to strengthen the contents of sections 30a to 30e, namely that credit unions could make long-term loans, according to sections 30a to 30e, with the security measures of sections 32a, 32b, 36a and 36b.

According to the records, these clauses on mortgage loans were drafted by referring to the relative clauses of the Saskatchewan Companies Act, the Trustee Act and the Cooperative Credit Association Act of Canada.

Even though there were some who thought that a mortgage loan was a kind of commercial loan and was against the principles of credit unionism, the legislature undertook to limit it but not forbid it. This had been the case in the past when mortgage loans were operated by banks. The passing of legislation may be considered as the beginning of the entry of credit unions into the commercial loan area after having been restricted to the traditional consumer field.

B. N. Arnason's opinion on the matter of credit unions being able to enter the mortgage loan field is of interest. He noted that there were two classes of credit unions. The
first class was traditionally based upon a common occupational grouping or parish. The second class of credit unions tended to expand more rapidly and provided a wider service, and therefore was able to enter easily into the field of mercantile loans.  

The second area of content regarded the status of credit unions’ cheque services. Section 14 of the 1955 Amendment added sections 43a to 43d to the 1948 Act. With these clauses, it was possible for the first time to permit credit union members to withdraw money from credit unions by means of negotiable orders. Thus, it was thought that credit unions were more nearly possessed the functions of a bank. Although the Act did not use the term "cheque", however, because the order’s or voucher’s function was actually considered similar to the cheque, this change became an very important pretext for some people to question credit unions’ legal status as to whether they were banks. The questioning dates seriously from the 1950s. This issue is addressed later in this thesis.

The third area of content concerned auditors’ rights and duties. As the amount of assets requiring the appointment of an auditor by law was decreased again under section 10 of the 1955 Amendment, more credit unions would be required to have auditors. Section 41a conferred certain rights upon auditors
and provided for certain duties. Auditing services were becoming systematized from that time.

The last area of new content in the 1955 Amendment concerned the appointment of an administrator to a credit union by the registrar. Section 70a, the new clause, provided the circumstances under which an administrator should be appointed, what kind of power an administrator had, the purposes for exercising administrative power and for whom the administrator works. Administrators were required because credit unions had started to use a chequing service and had acquired new lending policies. Both were needed to improve general administrative procedures, such as inspection and advisory services.
The 1956 Act

On April 5, 1956, the third Saskatchewan Credit Union Act, known as the Credit Union Act of 1956, was passed. It was actually a consolidation of previous legislation between the years of 1948-1955. Only one new clause, section 39, was introduced to the new act. It concerned the right of a credit union to provide, by a supplemental bylaw, for the minimum number of shares that a member should hold. This might have been a measure taken to deliver credit unions from the situation Ms. Purden described in Agents For Change, namely, that many members had held only one credit union share for a long time to gain the benefit of borrowing money, while only a few people owned the majority of credit union shares. Therefore, credit unions were in a potentially dangerous position, if the majority share holders withdrew their shares. This was the first time by law that credit union were allowed to use supplemental bylaw to provide for the minimum share. There were minor changes in the content of the other ten clauses, too.

A feature of the 1956 Act was the new order of its contents. Compared with the 1948 Act, the 1956 Act rearranged clauses considerably:

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"Borrowing Power" was moved from section 40, 41 of the 1948 Act to "Objects And Powers" (sections 19 and 20) of the 1956 Act. Section 82 of the 1948 Act, concerning membership of credit unions in other co-operatives was moved forward to "Objects And Powers".

"Membership" was moved forward to "Meetings" and "Duties of three committees".

"Reserves" and "Withdrawal Of Funds", which were added in the 1955 Amendment, were put together with "Apportionment Of Surplus", and so on. This adjustment made the Act more orderly and reasonable.

The Amendments Between 1957-1961

The 1956 Act had been through 5 amendments between 1957 to 1961. General features of the amendments are:

(a) the law started to encourage credit unions to make mortgage loans;

(b) credit unions strengthened the relationship with other co-operatives and credit unions within and outside Saskatchewan.
(a) On Mortgage Loans

From 1957 to 1961 some clauses had been added to the Credit Union Act which implied, directly or indirectly, that credit union members were encouraged to make mortgage loans. Subsection (c) of section 57 and subsection (2) of section 58 of the 1956 Act were amended in the 1957 Amendment and in the 1960 Amendment on the question of restrictions on loans. These amendments provided that if the combined paid-up capital and deposits of a credit union exceeded $1,000,000 and if the total assets of the borrower before the loan was made did not exceed $100,000, then "a loan may be made for any of the purposes" mentioned in the same clause. This was contradictory with the general restriction in the 1956 Act, which stated that "no loan shall be made for the purpose of purchasing land or buildings or erecting new buildings". In the 1960 Amendment the requirement concerning the total assets of a credit union for making loans was removed. On the matter of determining "Loans For The Purchase Of Land Or For Business Purposes" in section 62 of the 1956 Act, the 1957 Amendment inserted "at least two members of the board of directors" instead of "the majority" in the 1956 Act making the decision process for mortgage lending easier. The decision-making process for mortgage lending was further loosened in the section 2 of the 1959 Amendment to section 67 of the 1956 Act. The new sections
74a, 74b and 83a of the 1957 Amendment seemed, on the surface, designed to forbid credit unions from accruing interest on long-term loans. These sections actually also benefited the borrowers for they did not have to pay a higher interest if they defaulted on a loan in both two and four year loan categories. The amendment to section 60 in the 1958 Amendment added an exception for municipalities or municipal or public bodies performing a function of government that used negotiable orders to obtain loans for amounts in excess of 8% of a credit union’s paid-up capital, deposits and surplus but not in excess of 25% of these. The amount of required securities for loans had increased between 1958-1961, which allowed more credit unions members to borrow.

On the other hand, credit unions became very active in collecting money in financial markets. This set up a good situation for credit unions to support the policy of encouraging mortgage loans.

Credit unions had enlarged their scale of service to gain more deposits. This gave credit unions much more money to invest and lend. Credit unions could also borrow much more money from other resources, basically from the Society. The legislation permitted credit unions to borrow up to 50% of the paid-up value of unencumbered shares held by a credit union in the Society. Why was this so? On the one
hand, under the amendment to section 18(f) of the 1956 Act, credit unions could invest up to 50% of their capital in shares of the Society in contrast to 25% as provided before. Therefore, the Government had to meet the requirement of credit unions for them to be able to borrow money without approval from the Registrar. 118 On the other hand, the Society's relationship with Co-operative Trust had become difficult since 1956 over competition in financial markets. Further, the League, as mentioned earlier, had previously played an important role in law-making and seemed feeling inclined to help the Society when this situation occurred. Therefore, it was natural to make the Act more advantageous for the Society. 119

The policy of encouraging loans brought an obvious consequence to loan-making practice. In 1955, as the Act limited long-term loans, the amount of loans decreased from $14,557,828 in 1954 to $9,643,493. However, since 1956, the amount of loans jumped from $17,089,367 in 1956 to $51,284,944 in 1961. 120

(b) On Coordination with Other Co-operatives and Credit Unions

Since the mid-1950s, credit unions had developed very fast. By 1958 credit union membership was over 10,000 and credit unions assets reached $110,664,250. 121 The co-ordination of credit unions across the provinces then
became more necessary. Therefore, Saskatchewan credit unions, from the mid-1950s, started to seek relationships with other co-operatives and credit unions within and outside the province. The new section 123a of the 1958 Amendment conferred upon the federation of credit unions the ability to become a member of any federation, society, association or company incorporated both by the Act of the Legislature of Saskatchewan and that of any other province of Canada.\textsuperscript{122} This provision encouraged Saskatchewan credit unions to support national development in Canada later when the National Association of Canadian Credit Unions (NACCU) was established in 1959.\textsuperscript{123} In consonance with credit unions extending to other provinces, the amendment to section 18(i) in the 1960 Amendment removed "Saskatchewan" to allow credit unions to become members of any co-operative Superannuation Society or of such other organizations in other provinces.\textsuperscript{124} Meanwhile the Act was supplemented by section 123b and section 123c\textsuperscript{125} which provided that:

\ldots every credit union incorporated or registered by or under the authority of an Act of the Legislature of any other province or of the Parliament of Canada may, upon application to the registrar, be registered under this Act for the purpose of becoming a member of Co-Operative Superannuation Society...\textsuperscript{95}

In other words, the credit unions of other provinces could register and operate in Saskatchewan. Thus, relationships with credit union organizations across the provinces have
been legal since this time. However, the coordination between credit unions in Canada brought not only economical and political benefits to credit unions but some troubles as well.126

In sum, the credit union movement in Saskatchewan made great progress during the enforcement of the 1948 Act and the 1956 Act.
In the early 1960s, credit unions in Saskatchewan continued to grow very fast in terms of membership, assets and loans. Between 1961-1965 the rate of membership increase was over 10%; of total assets; on loans and shares the rate of increase was over 20%. In 1964 credit union assets surpassed $200 million and memberships passed 200,000. The rate of increase in ordinary deposits in 1965 even reached 38.4%. The scale of some credit unions became fairly large. Credit union activities showed good increases even if this situation did not last very long. Meanwhile, the competition in consumer deposits and consumer loans markets between credit unions and other financial institutions, especially banks, increased, too. Therefore, many new methods were introduced into credit union practices to meet needs of a more complex business situation during the 1960s.

Consequent upon the development of credit unions, some problems arose. In order to solve these problems, a special committee, called the Planning Committee, was established in 1963 by the League. The primary function of the Committee was to study specific matters upon the direction of the League board and make recommendations.
respecting long-term planning needs. It concluded that a priority for credit unions in the 1960s was to develop and adapt their activities in accordance with the changing needs of their members. 133 This really influenced credit unions to change policies and was also reflected in the Credit Union Act 1962, and the subsequent amendments thereto.

The 1962 Act

The 1962 Act was enacted on April 14, 1962. Compared with the 1956 Act and the Amendments to the 1956 Act, it added 14 new sections, 4 new subsections and 34 sections were revised. It included the following:

1. On the matter of a liquidator or liquidators of a dissolving credit union.

As mentioned earlier, dissolutions of Saskatchewan credit unions had increased in frequency since the 1950s. 134 Between 1961–1965 there were 10 credit unions dissolved. Compared with a total of 21 credit unions dissolved between 1937–1960, the increase in pace was quite significant. 135 Therefore, 8 of 14 new sections in the 1962 Act were concerned with this matter. They provided widely for the duties, powers and appointment of a liquidator or liquidators and some dissolution procedural matters that the liquidator or liquidators should follow. The liquidator or liquidators
were to be appointed by the Registrar. As soon as he/they was/were appointed he/they would exercise all the powers of the directors. The bases of the power for the liquidator or liquidators to dispose of the whole or any part of the property of the credit union were comprised by a resolution passed by a general meeting of the credit union members and the directions, and the orders and instructions of the Registrar. The Act forbade the liquidator or liquidators from purchasing directly or indirectly any part of the debts or assets of the credit union except when CUMAB was the dissolving credit union’s liquidator. Subsections (6) and (7) of section 107 also acted as a kind of limitation on the liquidator or liquidators when he/they dealt with the property of the credit union. Sections 109 and 110 concerned the order of disposition of the credit union’s property in that the wages and salary of all persons, other than directors, and all costs, charges and expenses properly incurred in the winding-up of the credit union, including the remuneration of the liquidator should be paid in priority to the claims of the ordinary or general creditors of the credit union. Section 111 dealt with how to fix the remuneration of the liquidator or the liquidators.

2 On CUMAB’s help to a dissolving credit union.

Two new sections in the 1962 Act dealt with CUMAB’s
assistance to a member credit union which was in dissolution. Section 126 stipulated for the right of CUMAB to be appointed liquidator of a credit union that was in the process of dissolution and seeking assistance from CUMAF to meet claims of the members for withdrawal of shares or deposits. Also CUMAB might help the credit union through purchasing the assets and assuming the liabilities of the credit union.

Section 119 dealt with refunds to the credit unions from CUMAB. The Act provided that:

(1) When the amount in the fund has reached $1,000,000 the board may in any year, with the consent of the registrar, refund to each credit union...

(3) The amount of every refund received by a credit union under subsection (1) shall be placed in its reserve fund.

Obviously, from this time, CUMAB had started to play a fairly important role in helping credit unions in financial problems. It would assist the dissolving credit union as a special liquidator to purchase the assets of the credit union and it could help credit unions by refunding to them certain money into their reserve funds that were set aside for meeting their losses on loans, etc.

3 On the federation's function to credit unions.

Section 141 of the 1962 Act was concerned with the federation of credit unions, which was the matter that section 123 of the 1956 Act dealt with. In section 141(1)(c),
the words "insuring the savings of credit union members" were added. This was the first time in which the Credit Union Act provided for insurance services from a federation to individual credit unions. In fact, the Society, as a federation, had acted as the central of credit unions in offering insurance services. Strangly, clauses (f) (g) and (h) were repealed from section 123 (1) of the 1956 Act. They read:

(f) receiving moneys from its members either as payments on shares or as deposits;

(g) making loans to credit unions which are members subject to section 19;

(h) depositing or investing the savings of members in the manner mentioned in section 18; ...

Clearly, these clauses covered some of the main credit services of a financial organization, such as saving, lending and investing services. It is really hard to say why the 1962 Act repealed these clauses? If the provision only applied to the League, it can be understood because the League did act in a more active way in social aspects. But, if the provision also applied to the Society, or to CUMAB, it was opposite to the facts because both organizations, as federations of credit unions, helped their member credit unions basically in the economic field, namely in saving, lending, investing, and so on. Anyway, the revision of subsection (1) expanded a
federation's function more into social aspects than the economic area.

4 On the extension of credit union services.
Subsection (a) of section 20, after having provided that a credit union could receive savings from members or receive the money held by its members for other persons or receive deposits from the Society, Co-operative Trust Company Limited and any company operating on a co-operative basis, further extended its savings service to "any company the majority of the shareholders of which are members of the credit union". Section 74, though it still provided that no credit union should lend money to or accept deposits from any person who was not a member of the credit union, made this exception, too. This was a really significant change. As we know, "service to its own members" had been one of the principles of credit unionism. Just because of this principle, a credit union could say that it was a non-profit organization when people attacked its legal status. Was a company in which the majority of the shareholders were members of the credit union a kind of co-operative company? Or could it be regarded as a co-operative? Obviously, later when the credit union's status was questioned by other groups, this was a weakness to attack.

Section 40, which dealt with the Part of Membership of
Certain Corporations and Organizations in Credit Unions, added a new clause (e) to subsection (1). A religious organization or society was allowed to become a member of a credit union by the new provision. Actually, the question of whether a religious society could be the member of a credit union had arisen in the late 1950s because some religious groups were involved in credit unions in order to help certain disadvantaged groups.145

5 On the matter of change of a credit union's name.

There were two new sections in the 1962 Act relating to the change of a credit union's name.146 In section 9, it was provided that the change should be based on a special resolution of credit union members and the Registrar's approval. Why did the question of changing name arise at this time? It related to the attacks incurred by credit unions during the 1950s and the 1960s because some credit unions' names or ads contained the words "bank", "banking" or "interest".147 It was also because so many credit unions were amalgamated that the credit unions needed to change their names.

The 1963 Amendment

In 1962, the fixed deposit account was introduced to credit unions by the Society. Therefore, in the 1963
Amendment a new method for credit unions to borrow money was provided being that based on "...moneys standing to the credit of the the credit union in a deposit account with Saskatchewan Co-operative Credit Society Limited for a fixed term ...". Section 87 of the 1962 Act, which was concerned with Requirements For Use Of Negotiable Orders For Withdrawal Purposes, had similar changes made to clause (b) of subsection (1).

There was no other changes in the 1963 Amendment.

The 1964 Amendment

Two sections of the 1962 Act (sections 68 and 122) were rewritten and one new section was added in the 1964 Amendment. New section 119a was a supplement to section 119 of the 1962 Act. It concerned the refund from CUMAB to the dissolved credit union members on the moneys paid by that credit union to CUMAB in respect of assessments levied pursuant to section 117 after the debts and the liabilities of the dissolved credit union were satisfied in full. Section 122 was about CUMAB, too. It was changed in form and a new subsection (b) was added. Its title was changed to Power Of Board To Make Certain Payments From Funds from Assistance To Credit Unions In Financial Difficulties in the 1962 Act. It was provided that out of that portion of the fund consisting of interest or dividends on moneys that CUMAB
had deposited or invested could be used for the following purposes for credit unions:

(i) ...for carrying on, encouraging and assisting in, educational and advisory matters relating to credit unions;

(ii) ...to the Credit Union League of Saskatchewan to enable the making of loans or grants by that league to credit unions for the payment of the salaries of the officers and employees of such credit unions ... 

(iii) ...for the training of officers of employees of credit unions;

(And)

(iv) the payment of interest at a rate not exceeding five per cent per annum to each credit union on the sum paid by the credit union in respect of assessments levied upon it pursuant to Section 117 ...

As we know, CUMAB was designed as a "reserve fund" organization to help credit unions when they met financial difficulties from losses or unpaid loans. And according to these provisions above, CUMAB also could exercise other functions.

The rewritten section 68 dealt with security on credit union loans. The basic loan amount upon which a member was required to give security was still $300. In the old section 68, it had provided that a credit union whose combined share capital and deposits exceeded $200,000 should require security to be given on all loans in excess of $500.

The changed section 68 provided for the matter in a more
detailed way. It arranged that a credit union with the combined share capital and deposits between $200,000 and $500,000 should require security on all loans in excess of $500 and that a credit union, which had over $500,000 combined share capital and deposits, should require security on all loans in excess of $1,000.\textsuperscript{153} From these dollar changes, we can easily see that (a) the scale of credit union activity had become larger; (b) the requirement for the small loans became looser.

The 1965 Amendment

Three sections were amended in 1965. Changes to section 21 of the 1962 Act were:

(i) clause (b) of subsection (1) changed "with the unanimous recommendation of the members of the board of directors" into "with the recommendation of at least three-fourths of the members of the board of directors" as a condition for a credit union to borrow money;

(ii) three other subsections were added right after subsection (1). They covered the explanations of what "a resolution" in clause (b) of subsection (1) and "a consent by the registrar to the borrowing by a credit union" in subsection (4) meant and also defined the Registrar's power to withdraw his consent.\textsuperscript{154} Section 66 of the 1962 Act was
rewritten in form and did not contain any changes in content in the 1965 Amendment.

Section 122 was further added by new subsection (c). It added another possibility for credit unions to get funds from CUMAB in the form of loans if:

(i) a credit union seeks financial assistance to purchase or otherwise acquire a safe or vault or other equipment necessary to ensure the safety of moneys and documents entrusted to the credit union by its members for safe keeping ...

The 1966 Amendment

There were two aspects to the 1966 Amendment.

A new section 52A enabled credit unions to transfer any unclaimed moneys to CUMAB with all liability in respect of the claim. Subsection (1) concerned the nature of unclaimed moneys. They were enumerated as follows:

...where in respect of a claim against a credit union for any debt, share capital invested, moneys deposited ...

(a) the claimant cannot be located after a reasonable investigation; or

(b) the claimant has not requested or acknowledged receipt of a statement of account for a period of ten years calculated from the day on which:
(i) the last transaction between the credit union and the claimant took place; or
(ii) a statement of account was last requested or acknowledged by the claimant;...
If any condition listed above existed, the credit union should pay the amount of the claim together with accrued interest, if any, to CUMAB. Then, CUMAB was to maintain the record of such payment and so as to be able to pay the money to a person entitled later. The provision illustrated another function of CUMAB.

Section 21 was amended again. It inserted subsection (1A) after subsection (1) to make a borrowing exception for credit unions. It was provided that if a credit union borrowed moneys for the purpose of making loans; if such loans that the credit union made were guaranteed in whole or in part by the Government of Canada or the Government of Saskatchewan or by a municipal corporation or school board and if such guarantee was approved by the registrar, the limitations on credit unions’ powers to borrow moneys would not apply to such borrowings.

The 1967 Amendment

Of the five sections changed by the 1967 Amendment, two new additions were introduced to the 1962 Act. The first involved the apportionment of the surplus for dividends to credit union members. Section 5 of the 1967 Amendment, for the first time, changed the rate of surplus apportionment for dividends from 5% per annum to 6%. Since the 1937 establishment of credit unions, the rate of surplus
apportionment for dividends had been 5%. The 1967 change should be regarded as a major one, for the increase in dividends showed that the credit union had to, and did, raise the benefits available to members to attract people under the pressure of the competition from banks and other financial institutions. As Christine Purden pointed out:

...In order to compete effectively with other financial institutions, credit unions must be able to offer attractive rates on savings and loans, and they could do this only if they handled their funds well. Also, they must be perceived to conduct their affairs in a responsible, business-like manner...

The second addition was concerned with subsection (3) of section 68 of the 1962 Act and the new section 68A in the 1967 Amendment. Both dealt with what could be taken as security for loans. Section 3 of the 1967 Amendment supplemented "or the signature of a co-maker" after "an assignment of shares or of deposits or the endorsement of a note" to add an extra form of security. Further, the new section 68A provided that:

68A. A credit union may acquire real or personal property as security for a loan made or to made by it or in settlement of an existing obligation and may sell, exchange, mortgage or lease the property.

The supplements to the available methods of security objectively would be good for credit union lending
activities. The same change could be seen in subsection (2) of section 95.

The 1968 Amendment

The 1968 Amendment made changes to 10 sections. The main changes dealt with:

1. Insurance on credit union members' savings and on credit union loans to the members.

As mentioned earlier, during the late 1940s and the 1950s, although many credit unions in other provinces started to use insurance services from CUNA Mutual, and although Saskatchewan credit unions could also have gained these services since the Federation affiliated with CUNA in 1942, insurance had not been carried widely by Saskatchewan credit unions. One of the reasons was the preference for the development of local insurance services in Saskatchewan. With the establishment and development of local credit union federations, insurance services were used more by Saskatchewan credit unions. In 1962, the League added "insuring the savings of credit union members" into its purposes. Also, a new subsection (b-A), which provided for CUMAB as an insurance agent, was added to section 129 of the 1968 Amendment. It provided that CUMAB could:

accept all powers, privileges and immunities conferred upon it by or pursuant to the Canada Deposit Insurance Corporation Act and to act as the agent
of the Canada Deposit Insurance Corporation established thereby.

Therefore, in 1968, a new section 20A was added to stipulate for the insurance services of credit unions. Subsection (1) provided that the objects of insurance were the lives of all or any class or classes of members of the credit union in relation to the amounts received from the members as payment on shares or as deposits or in relation to the amount of loans made by the credit union to the members. Whatever the insurance contract would be made, changed or cancelled by the directors on behalf of the credit union, it would be binding on every member of the credit union. This was the first time the Credit Union Act made provision for insurance services.

2 On CUMAB's further service to credit unions.

Section 11 of the 1968 Amendment added another CUMAB assistance service to credit unions. CUMAB might use the portion of CUMAF, which was consisted of interest or dividends on monies that CUMAB had deposited or invested to provide the help with:

- making of loans or grants to a credit union to pay fees incurred by the credit union under this Act or any regulations thereunder.

3 On the change of the apportionment rate to the reserve fund.

As CUMAB started to perform more functions when credit
unions found themselves in financial emergencies, and, as credit unions started to use insurance policies, the 1968 Amendment reduced the apportionment rate of the surplus to the reserve fund from 20% to 15%. The rate of 20% had been used for over 31 years.

4. On some flexible provisions for larger credit unions.

The addition to section 23 of the 1962 Act, which provided that a credit union could buy land and buildings for its business purpose, not only generally increased the value of land and buildings that a credit union could hold from $15,000 to $25,000 but also made it possible for a larger credit union to have higher value mortgages. The changes to sections 68 and 71 also showed that the larger credit unions could make more loans. The amendments to sections 28 and 58 were mainly concerned with the change of organization structure. For example, subsection (4) of section 28 provided that "one-third of the members of", instead of "one member of" (as per the 1962 Act), the supervisory committee shall be appointed by the directors...", in the past the size of the supervisory committee was three members but by the late 1960s some credit unions would have had larger supervisory committees.
The 1969 Amendment

There was a significant change in the 1969 Amendment. Mortgage loans were no longer forbidden. The requirements of the total assets owned by a borrower before the loan was made was taken out of Sections 61 and 62. So, if the borrower was the sole owner and proprietor of the mortgage for which he/she borrowed money, the mortgage loan would be open to him/her without other conditions. In the past, this unconditional mortgage loan service was only open to a co-operative association. After the inclusion of this provision, credit unions had no legal limitations on commercial lending activities, an area in which they experienced very tough competition from banks.

The changes to sections 36 and 42 were concerned with organizational structure, too. For example, the addition to section 36, which mentioned some "other committees as may be set out in the bylaws", showed that the size of credit unions having become larger, more committees were needed. Section 42 was amended by adding an exception to the limitation on members under 21 years old not being eligible for election as a director or a member of the credit committee or supervisory committee. It was said that:

(A member under the age of twenty-one years is not eligible for election as a director or as a member of the credit committee or supervisory committee) unless the credit union, by supplemental bylaw, permits him to act as a director
or as a member of the credit committee or supervisory committee when he has reached the full age of eighteen years.

Obviously, this addition made section 42 more flexible.

The 1970 Amendment

Two sections of the 1962 Act were rewritten and one new section was added to the 1970 Amendment. They brought some interesting changes into the Act.

1 The mechanism for fixing interest rates on loans made by a credit union was changed. For the last 32 years, the interest rates had always been acquired to "not exceed one per cent per month on unpaid balances" according to the provision of the Act. But, the 1970 Amendment changed this to "not exceed a rate at simple interest on unpaid balances prescribed in the standard bylaws". This provision, definitely, enabled each credit union space to make itself more attractive in competitive situations. However, some problems arose from this provision because it gave rise to competition within the credit union movement itself in addition to the competition between credit unions on the one hand and banks and other financial institutions on the other.

As Christine Purden pointed out:

The policy of giving local organizations a free hand in determining interest and dividend rates (subject to the requirements of appropriate statutes and bylaws) led to substantial variations in
the cost of loans and the return on savings between individual credit unions. It was not uncommon for organizations situated only a few miles apart to maintain a rate spread of several percentage points on their transactions with members. ...

...To an increasing extent, particularly in the larger credit unions, members took their business to the organization that offered the best deal. It might be a bank, or it might be another credit union.176

This change should be regarded as one of the signs that the credit union movement had moved towards becoming a commercial financial business.177

Another major change to the credit union movement happened over the apportionment of the credit union surplus in section 89 of the 1962 Act. After having increased the rate of the apportionment of the surplus to the dividends in 1967 and reduced the rate of the apportionment of the surplus to the reserve fund in 1968, the 1970 Amendment made further changes to the apportionment to the reserve fund. New provisions completely gave up using 20% or 15% to provide for the amount of surplus to be set aside to the reserve fund; instead it adopted the following procedure:

(a)...all entrance fees, fines collected from members and, at the end of each fiscal year, such sum as is the greater of:
(i) one-half of 1% of the outstanding loans of the credit union at the end of the fiscal year, and so from year to year until the reserve fund is equal to not less than 5% of the outstanding loans of the credit union from time to time; or
(ii) the amount necessary to increase the reserve fund to not less than the total loss exposure on outstanding loans at the end of the fiscal year, such loss exposure to be calculated in accordance with subsection (3) (which was a Schedule of Loss Exposure). 179

Why was the procedure for setting aside surplus to the reserve fund changed? Ms. Purden's description tells us that it was in order to reduce the rate of the reserve fund in a credit union. But, what for? Was it because credit unions did not need to keep such large reserve funds to meet any loss or financial emergencies once they were protected by CUMAF, then it would leave more money from the surplus to make mortgage loans, and other beneficial loans? Or, was it because the credit union movement became so mature that it learned to use money in more efficient ways? Anyway, these changes must be related to the competition between credit unions and banks and other financial institutions.

The same changes are found in amendments to sections 117 and 118. 180

To solve the problems which arose as the result of the competition within the credit union movement, an amalgamation between the League and the Society was commenced in 1969. 181 Therefore, in the 1970 Amendment, a new section on Amalgamation with the Saskatchewan Co-operative Credit Society Limited was added. 182 The Act provided for all rights and responsibilities on the new federation, and it
legalized the Credit Union Central (here after referred to as the Central).
After the inflation of the late 1960's, the economic situation in Saskatchewan started to change rapidly. The high returns each year from agricultural production, mining, construction, forestry and manufacturing industries provided a basis for the growth of Saskatchewan credit unions. In 1974-1975, the growth rate of Saskatchewan credit union assets reached 29%. Especially during 1979-1980, as the four western provinces' economic growth was far ahead of other parts of the country, Saskatchewan credit union assets jumped to $2,625,106,000 from $2,081,920,432 in 1978 and membership increased by about 80,000 in two years. Though the market for farm produce weakened again in the late 1970's, the growth has been stable to the present. The credit union movement has maintained rapid growth in this more competitive environment. Why is this so? From a banker's point of view, the credit union holds an advantage with its image of co-operativeness and profit for members; members consider the credit union to be a family organization that belongs to them and not to some absentee shareholders or anonymous executives. Secondly, the credit union has changed to match changed member needs.
Economic growth and credit union development in Saskatchewan placed credit unions in a better position to design new services for members and to facilitate the development of credit unions in other provinces. Relationships between credit unions in Saskatchewan, Alberta, Manitoba and Ontario became closer. 189

Conversely, competition from banks and other financial intermediaries to credit unions and the competition between credit unions themselves became more serious. First of all, the main competitors to credit unions were banks. The conflict mainly showed in their traditional lending areas though both tried to strengthen their backyard fences. Credit unions more aggressively and publicly went into the commercial lending area, which was traditionally regarded as the banks’ operational field. Similarly, banks started to pay more attention to consumer lending and small business loans, etc. For example, between 1973 and 1978, the mortgage loans of banks in Saskatchewan almost tripled. 190 The banks in Saskatchewan increased by 150% their small business loans from 1976 to 1980 191 and planned to double their small business loans from $800 million to $1.6 billion 192 while credit unions business loans had reached $1.5 billion in 1979. 193 The competition between banks and credit unions, as some foreign banks and more new Canadian chartered banks entered the Canadian financial market since the Bank Act was
changed in 1980, became more direct. The competitive pressure from banks on credit unions also appeared with the use of convenient automation services. In response to the first credit union automated teller machine (ATM) installed during 1977 in Regina, the Toronto Dominion Bank started to set up ATMs in Saskatchewan from February 1, 1981. In the competition with banks, credit unions enjoyed some advantages, such as the well-known co-operative principles and automated services. However, they also had some disadvantages which prevented them from making greater progress. For instance, as the rates of Canadian chartered banks had jumped up because of the American market’s influence, credit unions were potentially in a bad situation, for their principles and the Credit Union Act forbade them from raising the rates very much. The delay in revising the Bank Act before 1980 presented credit unions with some difficulties, too, because the Federal Small Loan Act, which was part of the Bank Act, limited the rate of small loans under $1,500 to 12%. When banks increased their rates, this limitation undoubtedly prevented credit unions from operating in the small loans area.

The competition between credit unions raised the small credit union problem. Since the 1960s, by which time the Credit Union Act contained more flexible provisions for the development of large credit unions, the differences between
large and small credit unions became more obvious. Small credit unions could not compete with large credit unions in many new service fields. Neither did they like to amalgamate with large credit unions, for they were afraid of losing their small local organizational characteristics. Conversely, large credit unions feared that small credit unions might become burdens in the way of greater development of the movement as a whole. Despite these concerns, more amalgamations occurred.

To strengthen their competitive position credit unions adopted the following measures:

(1) They established their own co-operative bank for more lending. This idea had been discussed some time previously. Since the early 1970s, three western provinces, Saskatchewan, Manitoba and Alberta, began to plan a co-operative bank again. After certain preliminaries, the Northland Bank was incorporated in December, 1975. Co-operatives and credit unions in these three provinces held majority shares in the bank. In November 15, 1976, the Northland Bank made its first loan. During the first 5 years, the Northland bank operated fairly well. Its main clients were middle-size and small businesses. The Saskatchewan Society/Central started to reduce its shares in the Northland Bank in 1980. In 1985, the Northland Bank declared bankruptcy.
(2) Credit unions began using automation equipment for the evolution of the payments system. The first automation equipment were simple cash dispensers, appearing in 1968 in the area of customer service. Then, in 1977, the first ATM was installed in Saskatchewan. As mentioned before, credit unions installed ATMs much earlier than did banks. The development of the ATM has consisted of 3 steps with 3 forms.

(3) Credit unions encouraged and increased more commercial loans. Beginning in the 1970s, credit unions were encouraged by the Central and the Mutual Aid Board to move into the commercial lending area; although commercial lending has high risks, it also has high profits. Increased commercial lending was the major trend for credit union development in the 1980s, too. Under this new policy, credit union commercial lending has increased a great deal.

(4) Credit unions increased the rates in lending and deposits fields time and time again under the pressure of competition from banks when banks continued to raise the rates in lending and deposits fields.

(5) They enlarged the scale of membership. To draw more deposits and to use the ATM system, credit unions in Saskatchewan gave up the "bond" membership limitation.

(6) The function of the Central and CUMAB was strengthened.
More convenient services for meeting credit union members' changed needs were invented to strengthen their competitive position.212

The Credit Union Act was changed to enable credit unions to adapt to a changing environment. It was necessary for credit unions to realize all of the above measures. The requirement to give the Credit Union Act more flexibility so that credit unions might have more power had been identified during the 1970s and the early 1980s. Credit union leaders thought that "the existing legislation no longer reflects any consistent well-stated purpose" because "there has been pressure for credit unions to add new services, some of which are not allowed under existing legislation...".213 The reform of credit union legislation was large scale, involving even basic credit union principles.214 An analysis of these changes will be made later in this chapter. To sum up, the trend to change the Credit Union Act arose from a desire to free credit unions from limitations which had kept them in a disadvantaged position.

With credit unions changing greatly, some doubts were raised about the nature of credit unions. As credit union leaders had different opinions about how credit unions should operate under the pressure of competition, there were different attitudes towards credit union change. Some thought that credit unions should keep their original uniqueness.

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They worried about losing those credit union principles which had been the basis for credit union progress over the previous decades.

...If credit unions start to forget their heritage inevitably they will lose the distinguishing features which once separated them from other financial institutions. 215

They emphasized that credit unions should return to doing things in a uniquely credit union manner; in the past the banks had copied credit unions. Yet, it appeared that credit unions were now copying the banks. 216 Some thought that if credit unions were to survive in a competitive environment they should adapt to the changing environment based on the needs of members. Those who were of this opinion did not deny that credit unions had become similar to banks and other financial intermediaries:

Credit unions are financial intermediaries like trust companies, loan companies and banks and are engaged in three types of activities—aggregating savings, making loans and transferring funds from one party to another. The way in which credit unions are different from the other financial intermediaries is in their dedication to co-operative principles and their member control structures.

Once the question has been answered satisfactorily the system can look at rewriting the legislation to make it possible for credit union to do the things they must do to meet the needs of their members. 217 (emphasis added)
These attitudes will be seen through an analysis of the legislative changes, below.

Between the 1972 Act and the 1985 Act, the **Credit Union Act** had been amended 8 times. Of these, the 1976-77 Amendment and the 1980-81 Amendment, had greater new content.

The 1972 Act

The 1972 Act was assented to on May 5, 1972 and came into effect on September 1 of that year.

In comparing the structure of the 1962 Act with the 1972 Act, the latter had the following features:

1. It merged many sections of the 1962 Act into a few according to their similar contents.  
2. It rearranged some sections of the 1962 Act forwards or backwards in order to meet the needs of the whole structure.  
3. It transferred a number of sections of the former Act to the **Credit Union Standard Bylaws**.

Concerning the contents of the Act, the 1972 Act had the following changes:

(a) The bond of association for membership was widened to permit a credit union to accept any persons and private companies incorporated under Saskatchewan law as members. Sections 40, 41 and 42(1)(h) were concerned with this matter.
Section 40, provided that the terms and conditions of membership would be set forth in the standard bylaws. But, actually, in the Standard Bylaws 1972, it was said that the supplemental bylaws of the credit union should specify the common bond of association, occupation or residence of persons to whom membership would be limited. Although section 41 did repeat that the membership of a credit union should be limited to groups of persons having a common bond of association... it also stated:

...but a credit union may by supplemental bylaw provide for the acceptance as members of any persons who can conveniently be served by it.

Section 42(1)(h) specified what kind of private company could be a member of a credit union. It provided for three conditions: incorporation under the laws of Saskatchewan; the majority of shareholders being members of the credit union and the majority of the shares of the company being held by members of the credit union.

(b) Some changes gave credit unions more flexibility in business operations.

(i) The limitations on long-term loans (including mortgage loans and business loans) were completely taken out of the Act and left to the Standard Bylaws. Section 24(1)(f) removed the limitation on credit union investment.
credit union holdings of land and buildings was abolished, too.

(ii) The powers to borrow, the rate of the dividend and interest rates on loans were made totally subject to the Standard Bylaws.\textsuperscript{223}

(iii) The supervisory committee became optional for individual credit unions. Section 31(6) provided that:

\begin{quote}
Where a credit union appoints an auditor under section 77 it may by supplemental bylaw dispense with the appointment of a supervisory committee.
\end{quote}

Thus, arguments about the function of the supervisory committee since the introduction of the auditing service during the 1950s were addressed. For those credit unions retaining the supervisory committee, one of three members would be named by the board of directors as chair of the committee.\textsuperscript{224}

(c) The function of CUMAB was greatly strengthened.

Since the late 1960s, CUMAB's function in the credit union movement had obviously become very important. On the matter of its business relation with the Society/Central, CUMAB was responsible for making a report on the affairs and financial condition of the fund to the annual meeting of the Society.\textsuperscript{225}

The new section 120 provided that CUMAB could supervise credit union business on behalf of the Registrar.\textsuperscript{226}

The new section 107, merged with the content of section
116 of the 1962 Act, and for the first time provided for insurance services from CUMAB to its credit union members.\textsuperscript{227}

The insurance services included:

(a) fire insurance;
(b) bonding of employees;
(c) insurance against burglary and theft;
(d) deposit insurance;
(e) public liability insurance.

The 1972 Act removed the provisions of section 119 in the 1962 Act and section 119A in the 1964 Amendment, which dealt with refundable assessments from CUMAB to its members. Instead, more emphasis was placed upon using money to do other things for the members.\textsuperscript{228}

(d) There were two other changes in the 1972 Act worthy of mention. First, the education fund in the distribution of the surplus disappeared. Was it because the Society/Central and CUMAB took over this burden, so that every individual credit union did not need to set aside money for this purpose? Or was it because credit unions by this time became more business-like, so they gave up their education function, one of their social functions? Or just simply because after having operated for 35 years, credit unions no longer needed to tell people what a credit union could be through education programs as they had done in the past? Whatever the reasons were, this was a fairly important change for credit unions.
It relates to credit unions' uniqueness; their social function, which differentiate them from other financial institutions. Further, the credit unions principle on education, remained but it was not clear how they could fulfill its requirements without an education fund? Second, section 24, while it stipulated for the Objects and Powers, also provided that credit unions could:

(1) (e) deposit money with Saskatchewan Co-operative Credit Society Limited and, for chequing purposes, in chartered banks.229

The conflict between banks and credit unions over the use of the clearing system had existed for a long time. However, this was the first time that the Credit Union Act disclosed it to public. This suggests that the credit union had become strong enough to stand up to banks as an equal financial institution and was trying to improve its disadvantaged situation by using the banks' clearing system.

The 1973 Amendment

Because of the increasing credit needs from credit union members in the long-term and business loans areas, credit unions had to make more such loans. But, the existing Act limited credit unions from making too many long-term loans.230 In 1973, a special organization for making more commercial loans directly, Saskatchewan Co-operative Financial Services(SCFS), was established.231 Subsequently,
section 2 of the 1973 Amendment added SCFS into section 24(e) and (f) as a permitted place for credit unions to place deposits.

Section 3 of the 1973 Amendment put the requirement for a credit union auditor to be a chartered accountant back into section 77 of the 1972 Act. This requirement was struck from the 1972 Act but had always been in the former Credit Union Act.

Section 82 of the 1972 Act was changed with the addition of one exception on the reserve fund. It said:

(i) one-half of one per cent of the outstanding loans of the credit union at the end of the fiscal year, other than loans that are guaranteed by any government, or by any board, commission or agent of any government, that has been approved by the registrar, and so from year to year until the statutory reserve is equal to not less than five per cent of the outstanding loans of the credit union from time to time other than such guaranteed loans.232 (insertion emphasized)

This provision meant that loans guaranteed by any government, or by any board, commission or agent of any government were not to be considered in the one-half of 1% of the outstanding loans stipulated in subclause (i) of clause (a) of subsection (1) of section 82, which was about the apportionment of surplus.
The 1974-75 Amendment

The 1974-75 Amendment received Royal Assent on January 15, 1975. There was only one change. It was the change to section 82(1)(a)(i), again. Loans guaranteed by the Mortgage Insurance Company of Canada would be considered as the exception to the reserve fund accounting method, too.

The 1976 Amendment

A new section 136A and a new schedule Form E were added to the 1972 Act on April 27. They concerned credit unions, incorporated or registered in other provinces, being registered for a certain purpose in Saskatchewan through a certain process. The Act limited the activities of such credit unions in Saskatchewan to the extent not to carry on business except to secure their property situated in Saskatchewan. Subsection (3) of section 136A provided that:

Where a credit union holds a certificate of registration issued under subsection (2) and where it considers it desirable to secure any existing loan made by it to one of its members, it may take, perfect or register any mortgage, charge or similar security that may be granted by or had from the member and that relates to property all or part of which is situated in the province of Saskatchewan and the credit union may, in the province, maintain any action, suit or proceedings with respect to that security.
The 1976-77 Amendment

On April 22 of 1977, new amendments to the 1972 Act were assented to. There were three matters covered in the 1976-77 Amendment.

1) The rearrangement of the CUMAB provisions.

This part was composed of sections 106-126 of the 1972 Act with 6 new provisions in the 1976-77 Amendment. The new Part was almost like an independent law for CUMAB. The Society/Central lost its privilege to occupy three of five seats on the board of directors of CUMAB and the privilege of providing the chairman of that board.234 Also, the relationship between the Provincial government and the credit union movement changed.235 Regarding the procedures of meetings, subsection (2) provided that

A resolution of the board, signed by all members, is of the same force and effect as if duly adopted at a regularly convened meeting of the board.

The powers, bylaws and directives, the assets of CUMAB; the guarantee on credit unions' shares and deposits; the provisions on CUMAB officers; the dissolution of CUMAB and general rules were also covered. A very interesting phenomenon was the provision of CUMAB's three additional powers. (a) The supervision power;236 CUMAB obtained this power from the 1972 Act because the Registrar (i.e. the Government), who had had the power, could not fulfill it properly.237 (b) The inspection power;238 it included the
conditions for CUMAB to use this power in relation to a credit union; the procedure of inspection; relief from inspection for a credit union and the additional powers of CUMAB when it was inspecting a credit union. (c) The administration power, through the appointment of an administrator for credit unions. 239

2) The amendment to section 36(2) transferred the power over deciding the remuneration of directors and committee members from the supplemental bylaws to the members of the board of directors.

3) A new section 136B conferred on credit unions, incorporated or registered in Saskatchewan, the right to register in other provinces and other countries for the same purpose as section 136A provided. However, it did not stipulate any limitation of not carrying on business in other jurisdictions.

The 1977-78 Amendment

There was no important change in the 1977-78 Amendment. Section 2 of the 1977-78 Amendment added "the Co-operative Trust Company of Canada and other federal corporation or agency" into section 24(1)(b) as organisations where credit unions could place deposits. Section 90(1)(b) was omitted as its content overlapped with section 124(1) and (2) of the 1976-77 Amendment.
Two other sections were only changed in a minor way.

The 1979-80 Amendment

On April 29, 1980, the Credit Union Act was amended.

According to the new provisions, credit unions were now allowed to sell fixed term annuities to their members. Section 5 of the 1979-80 Amendment provided that, under the Income Tax Act of Canada credit unions, like other banks or financial agencies, should not use members' money in the form of Registered Retirement Savings Plans, Registered Home Ownership Savings Plans and Registered Retirement Income Fund which were deposited in the credit union to pay the members' debts.

There were small literal changes to sections 31(1)(a)(ii) and 105(1) of the 1978 Revised Credit Union Act (hereafter referred to as the 1978 Act).

The 1980-81 Amendment

There were two new sections and ten sections rewritten in the 1980-81 Amendment. They covered the following:

1) The requirements for credit union membership were relaxed. Section 42 of the 1978 Act, dealing with credit union membership, was amended. Any recreation board performing a function of government, unincorporated body or partnership and the Government of Saskatchewan, any agency, board or
commission of the Government of Saskatchewan or a Crown corporation could be a member of a credit union. Even corporations and societies "which are eligible for membership in a credit union" could be served by the credit union.

2) Section 36 of the 1978 Act, about remuneration of directors and committees members, for the first time declared that remuneration to directors was for services actually rendered to the credit union, instead of the vague provision of the past. This appeared to be a step towards giving up the "No Remuneration" principle.

3) The power of the board of directors in the three-tiered control system of the credit union was emphasized much more than the supervisory committee and the credit committee.

(I) The board could have the power to appoint all three supervisory committee members instead of appointing only the chair; to appoint the credit committee or the credit committees "for each branch of the credit union which provides full loan services"; to appoint any committees it considered necessary and delegate to any committee any power for the efficient conduct of the affairs and business of the credit union; to restrict the power of any credit committee to approve loans and to authorize the treasurer or any loan officer responsible to the treasurer to grant loans.

(II) To pass any resolution, the board adopted the
"Majority Attending, Two Thirds Approving" instead of the "All Attending, All Approving or Majority Approving" method of the past.  

4) There were five sections concerning deceased members' monies and unclaimed balances.  

5) Credit unions adopted a more flexible attitude towards member overdrafts by using negotiable orders by which they might treat overdrafts as non-application loans.  

The 1983 Amendment  
There were only two sections of the 1978 Act changed in 1983. They concerned CUMAB name's change. Since 1983 CUMAB has been known as the Credit Union Deposit Guarantee Corporation(CUDGB). Therefore, CUMAF became the Credit Union Deposit Guarantee Fund(CUDGF).  

There were no further amendments in the 1983 Amendment.
CHAPTER 2 -- PART VII: THE CREDIT UNION ACT, 1985

As the credit union had experienced a very competitive environment with banks and other financial institutions from the 1970s on, the wish of credit union leaders and members to change the Credit Union Act to keep pace with the changed needs of the credit union members became much stronger in the early 1980s. Therefore, from June, 1983, the preparatory work for a new Credit Union Act was started by a committee consisting of representatives from the Central, the Credit Union Deposit Guarantee Corporation (it was CUMAB before 1983 and hereafter referred to as the Corporation) and the Department of Co-operation and Co-operative Development of Saskatchewan.

The credit unions' attitude was very clear: the new legislation should be in tune with credit union operations in that it should give credit unions more self-regulation powers to confirm and create more new services needed by contemporary credit union members in order to compete with other financial institutions. Some credit union leaders thought that the Credit Union Act, although it had been amended or revised many times, did not include the new concepts, which were introduced into the corporate law in the
1970s, and this hindered the development of credit unions. For example, the old Credit Union Act limited credit unions to business with their members. Obviously, this provision would be in conflict with using ATM system because a credit union member might access his/her account from an ATM owned by another credit union. As Mr. Bromberger, Chief Executive Officer of the Central by that time, pointed out, credit union legislation needed to be changed because "if something wasn’t mentioned in the old Act, you could not do it". In another words, credit unions needed room for development, but the old legislation would not allow them to offer some new services which simply were not foreseen in the past. This placed credit unions in a disadvantaged competitive situation.

In practice, the development of credit unions was quite even. However, credit unions were tied down by the limitations in the old Act. In 1984, six credit unions in Saskatchewan met certain financial difficulties and credit unions' earnings in 1984 were down 36% from 1983. The economic circumstances in this country were not sufficient at that time for credit unions to develop, either. In 1985, two banks, the Northland Bank and the Canadian Commercial Bank, became bankrupt. Competition became more intense. How could credit unions progress under such circumstances? Mr. Harrison pointed out in his article: The economic pie was not getting
much bigger. Growth in population and/or the economy would not offer many new opportunities. Yet every financial institution should keep or increase its market share and try to get a bigger slice of the market.257

Meanwhile, another new phenomenon/trend appeared with the development of Canadian financial markets. The four traditional financial institutions, the old concept of the "four pillars", which comprised the banks, the credit unions, the trust and insurance companies and securities dealers, started to intermingle their activities with each other.258 For example, the Canadian Imperial Bank of Commerce had already underwritten securities -- a questionable activity under federal banking regulations.259 These made changes to credit union legislation more necessary and complex.

The credit unions' policy for changing the Credit Union Act was to enable the credit union to compete equally with other financial institutions. For this purpose, the new Act should give credit unions more self-regulatory powers. As Mr. Sandberg, the new Minister of Department of Co-operation and Co-operative Development, explained after the 1985 Act was enacted:

...What the legislation says now is that credit unions can do what is deemed to be the business of a credit union. In other words, all services that credit unions are currently providing are legitimate, and anything that is not specifically restricted would also be legitimate provided they can get licencing authority

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from other jurisdictions when and if that is required. 260

This policy was embodied in the following aspects:

1) To promote a three-tiered approach to self-regulation to protect the public interest. The individual credit union would be the first line of defence; the Corporation the second and the Registrar the third.

2) To remove credit union objectives from the legislation and put them into revised articles of incorporation in order to allow credit unions to have the powers of a natural person to provide all financial services except underwriting (e.g. insurance and securities).

3) To permit credit unions to acquire risk capital by issuing equity shares, preferred shares, and by issuing bonds, debentures, and other securities, subject to approval of the Co-operative Securities Board which is a Government appointed board, incorporated under The Co-operatives Act. 261

4) To establish a bond of association as broad or as narrow as desired enabling a credit union member to access his/her account from an ATM owned by another credit union.

5) To change liquidity requirements so that there will be primary liquidity, which is cash or demand deposits with the Central, and secondary liquidity, which includes funds other than investment at the Central.

6) To incorporate the positive elements of corporate law into the Credit Union Act so reducing the reliance on common
law, which sometimes proved prejudicial to the interests of the credit union.

7) To define the financial disclosure requirements for preventing unauthorized access to data systems; something that is necessary with the increased use of electronic banking.

8) To permit the use of mechanical, electronic, homebanking or other new technology for transacting credit union and inter-institutional business.

9) To give more flexibility to credit committees and loan approval procedures. For example, all committees have become optional.

10) To streamline the audit approach so reducing the need for frequent examinations by the Registrar.

11) To change the required accounting procedures by setting up an allowance for doubtful loans instead of the reserve fund to ensure precise financial accounts for credit unions.

12) To emphasize that the Corporation occupies a key position as a regulatory agency.

13) To restate the co-operative principles, based largely on the internationally accepted definition.

14) To place strong restrictions on extra-provincial credit unions doing business in Saskatchewan.

15) To spell out the qualifications, responsibilities and functions of directors and officers.262
It seems to me that at the beginning when the work of changing the Credit Union Act had just started, the credit unions' policy was understood quite well by the Government. At least, the credit unions thought so. But, towards the end of 1984 and in early 1985, the drafting work slowed down. There was one divergence of opinion between the credit unions and the Government. The Government did not want to give the credit unions as many powers as they expected in sections 19 and 20 of the draft. The reasons that the Government gave to the credit unions were: (1) that the Government wished to go slowly in changing the rules that regulate financial institutions and did not wish to embark on one course only to find itself high and dry when other provinces and the federal government revised their rules. As Mr. Al Mulholland, Deputy Registrar and Director of Inspection and Registry Services with the Saskatchewan Department of Co-operation and Co-operative Development at that time, said:

...Because we are leaders, and because this (act) is going to be looked at as a model in many jurisdictions, that is why we feel we have got to be very careful what we do...

(2) that the Government emphasized its role as a protector of the public interest seriously. Mr. Mulholland pointed out that credit unions must realize that the government had a much wider mandate than simply looking after credit union concerns. In addition to regulating credit unions in the
interests of the public, the province also regulated other financial institutions like insurance companies, trust companies and the securities industry. On the other side, credit unions thought that the act rewrite on the capacity and power of credit unions included in sections 19 and 20 was the core of the required changes. Also, credit unions thought that they had obtained agreement from the Government to write the Act in an "enabling" fashion which would allow credit unions to participate in any business activity not specifically prohibited by the provincial government or by other jurisdictions. The reason for the Government's attitude changing, according to the credit unions analysis, was an effective lobbying effort by insurance agents, who were concerned that enabling credit union legislation would put them in competition with credit unions. This divergence delayed the act rewrite.

At last, the 1985 Act was proclaimed in October 17, 1985. It came into effect from January 1, 1986. Until now it has not been amended.

The 1985 Act

The 1985 Act is completely different from those former Acts on the question of structure. All former Acts had been based on the structure of the 1937 Act. Even though some of them did include certain structural changes, they did not get
rid of the original format. But, the 1985 Act gives up the old format absolutely. It is divided into 23 parts.

Part I - Interpretation and Application

There are three matters in this part worthy of mention.

(a) Many new concepts are added to the 1985 Act. They cover some concepts related to the corporate status of the organizations and to technical definitions borrowed from corporation law.

(b) Co-operative basis is emphasized in section 5. It includes the co-operative principles accepted internationally, such as "one member, one vote" (no proxy voting); services for the "benefit of the members"; "voluntary and open membership" and "net income used for the members".

(c) A contradictory provision referring to the definition of "former Act" exists in section 4.

   (i) Subsection (1) of section 4 defines that "former Act" means The Credit Union Act, but, it does not point out whether it means only the 1972 Act or includes all former Acts.

   (ii) Subsection (2) provides that credit unions incorporated under the former Act will be recognized by the 1985 Act. Therefore, it could be inferred that "former Act" should include all former acts because it is not possible
that the 1985 Act only accepted credit unions registered under the 1972 Act but did not include other credit unions registered under the 1937 Act, the 1948 Act, the 1956 Act and 1962 Act, which consists of the majority of credit unions.

(iii) But, section 23 of the former Act mentioned in section 4(3) of the 1985 Act only means section 23 of the 1972 Act, which covered the objects of credit unions. So, in order to avoid misunderstanding this provision, it should be provided in section 4(1) as follows: that "former Act" means The Credit Union Act, 1972.

Part II - Incorporation

There are three points in this part, too.

(a) As corporation law does, the 1985 Act adds the requirements for the incorporators of a credit union. These have never appeared in the Credit Union Act before.

(b) The definitions in the standard bylaws or supplemental bylaws were dispensed with by the new Act. It uses "Regulation" instead of "standard bylaws" and "bylaws" instead of "supplemental bylaws". The Regulation/Standard Bylaws are to be made by the Provincial Government while Bylaws/Supplemental Bylaws are to be passed by each credit union. However, after having passed the 1985 Act, the Government has not passed new Regulations for the new Act. In another words, the Present Regulation is the old one made in
1982, called *The Credit Union Standard Bylaws*, which used, and still uses, the definitions of standard and supplemental bylaws. This is different from the 1985 Act.

(c) The concept "pre-incorporation contract", which is obviously from corporate law, is adopted by the new Act.

Part III - Capacity and Powers

There are 5 sections in this part. Section 19 provides generally for what a credit union can do. The other 4 sections provide for what a credit union cannot do. As the credit unions required, the 1985 Act does not provided specifically for what a credit union can do, unlike the case of the former acts. Except for the limitations in the Act, the capacity and powers of a credit union would be limited by the Regulations or its articles or bylaws. A credit union carrying on business outside of Saskatchewan has to abide by the laws of that other jurisdiction(s). A credit union is forbidden to engage in underwriting.

Part IV - Registered Office and Records

Section 29(1) emphasizes that no person shall disclose any information with respect to a member's account or with respect to any records of a credit union.
Part V - Finance

Two things in this part should be noticed.

(a) The value of par shares in a credit union is decided by the credit union itself in its articles. Before the 1985 Act, this matter was always provided for in the Credit Union Act with par share having a value of $5, because at that time credit unions could not issue many kinds of shares.

(b) Except for the allocation of net income and liens on a share everything can be decided by credit unions in their bylaws; other financial activities of credit unions have to follow the regulations, such as those regarding liquid assets, allowances and reserves, investments and borrowing.

Part VI - Loans and Deposits

On the matter of loans, the 1985 Act firstly provides for who shall comprise the membership of the credit committee(s). The board of directors has absolute power to appoint the credit committee(s). It is obvious that the credit committee(s) tasks are to scrutinize and approve loans, for the Act so states in this Part. Secondly, the regulations play a very important role in dealing with loans. The limitation on lending to the directors or other officers; the security for loans; the maximum intervals at which interest on loans is required to be paid and the limits on
the amounts of loans to any one member or on any types of loans are all stipulated in the regulations. 277

Section 46 provides that a credit union can receive deposits from almost anybody but the regulations prescribe the manner, form and the conditions for accepting deposits.

Part VII - Share Certificates, Memberships and Transfers

The bylaws can provide for common share certificates. 278 Section 48(e) states credit unions are allowed to issue many classes of shares.

Section 49 deals with the relationship between share transfers and the share's new owners.

As to the membership sections 50 and 51 deal with joint memberships. The bylaws also can cover this matter.

Part VIII - Directors, Officers and Bylaws

There are 26 sections in this Part. All are concerned with directors and officers of the credit union. Nothing is said about bylaws. It is odd that "bylaws" is part of the title of this Part.

Generally speaking, a director should act under the Act, regulations, the contract, the articles and the bylaws. 279 This Part provides in a detailed way for the directors' powers and liabilities. It no longer provides for the
remuneration for directors' services as did the 1972 Act. Section 67 is a new concept. It says:

67 A credit union may purchase and maintain insurance for the benefit of a director, member of a committee of the board, officer or employee against a liability, loss or damage incurred by that person while serving the credit union or a subsidiary of the credit union as a director, member of a committee, officer or employee.

Section 72 provides for the indemnification of directors against costs, charges and expenses to settle an action on behalf of the credit union.

Part IX - Members and Meetings

Sections 78-93 are about meetings and things related to meetings. The Regulations will provide for the quorum in the meetings. Sections 94-100 concern the withdrawal of members, membership termination and payment on death of a member.

Part X - Financial Disclosure and Audit

There are three sections referring to the financial statement which is the duty of directors to provide to the members.

The other thirteen sections in this Part are about auditing. The credit union members, according to the regulation and the bylaw, appoint an auditor for their credit
Section 39 of The Credit Union Standard Bylaws provides that 1) the recommendation of the board of the directors; 2) the appointment of the members; 3) the approval of the Registrar are the procedures to be followed for the appointment of an auditor for a credit union. It does not stipulate any requirement about credit union assets as did the 1972 Act.

Part XI - Annual and Special Returns
Only one section is in this Part. Generally, the Registrar is envisaged as overseeing this matter.

Part XII - Fundamental Changes and Amalgamations
This part covers the following questions:
1), Amendment to Articles. The procedure for amendment is that the Registrar approves of a credit union's decision to change its Article; the members of the credit union may pass a special resolution to confer on the directors the power to make the proposal for the amendment; the directors make the proposal; the members have to pass the changed Article before it is to be sent to the Registrar for approval.

2), Amalgamations of credit unions. The Corporation may require and has the power to approve the amalgamation of credit unions which are subject to its administration or
supervision. The members of the amalgamated credit unions must approve the amalgamation agreement submitted by the directors.

3), The effect of an amalgamation on extra-provincial credit unions or on credit unions registered under the Saskatchewan Credit Union Act in other provinces.

Section 132 provides that it is within Registrar’s power to make orders for amending credit union articles, for amalgamation of credit unions, and for the liquidation and dissolution of a credit union.

Part XIII - Investigations

The inspection of credit unions is the duty of the Registrar and the Corporation. They can appoint a special auditor to examine the affairs of the credit union in which the lesser of 300 members and 10\% of the members apply for this examination or the Registrar may appoint the Corporation to be the inspector for the investigation of the credit union. The power of the Corporation will be set out in the order of the Registrar.

Part XIV - Remedies

Eight sections in this Part are all similar to the contents of corporation law.
Part XV - Offences

This Part enumerates three kinds of offences: those with respect to records, offences with respect to reports, and offences with respect to contravention of the 1985 Act. Prosecutions for such offences should be commenced within two years from the time when an offence arose.

Part XVI - Dissolution

There are a number of different ways to dissolve a credit union.

(a) Dissolution by the members, which has to be approved by the Registrar.

(b) Dissolution by the Registrar under certain circumstances.

(c) Dissolution by court order, according to the application from the Registrar or other persons concerned.

As under the 1972 Act, the unclaimed balance is to be deposited in the Corporation.

Part XVII - Liquidators, Administrators and Supervisors

There are twelve sections in this Part, which provide specifically for the powers and liabilities of liquidators, administrators and supervisors and their emmunerations.

Part XVIII - Security Issues
The issue of credit union security is under the supervision of the Co-operative Securities Board.\textsuperscript{302}

The issuing of security can extend to almost all kinds except the contract of insurance issued by an insurance company and the evidence of deposit issued by a financial institution.\textsuperscript{303}

The Registrar may direct that the proposed issuance of securities by a credit union be subject to \textit{The Securities Act} 1984 if he considers it to be in the public interest,\textsuperscript{304} even though the 1985 Act provides that \textit{The Securities Act} 1984, generally speaking, does not apply to the trade in securities of a credit union.\textsuperscript{305}

\textbf{Part XIX - Trust Indentures}

There are ten sections concerning trust indentures. They provide for the qualification of a trustee\textsuperscript{306} and the obligations and rights of a trustee.\textsuperscript{307} This is a new departure for credit union legislation.

\textbf{Part XX - Extra-provincial Credit Unions}

There are nineteen sections in this Part. The following contents are covered:

(i) An extra-provincial credit union may be registered in Saskatchewan under three conditions. They are:

(a) becoming eligible for membership in the Co-operative Superannuation Society;
(b) registering a security in Saskatchewan;

(c) taking steps for the purposes of collecting a loan that is owed to it. 308

Subsection (c) above was in the 1972 Act; but the other two conditions are new. However, although the extra-provincial credit union is still strictly limited, its potential for getting registered in this province, with the opportunity to do business in Saskatchewan, is extended a little.

(ii) The Registrar has the power to limit the extra-provincial credit union’s activities in this province. 309

(iii) An extra-provincial credit union may appoint an attorney within Saskatchewan in the form prescribed in the Regulations. 310

(iv) An extra-provincial credit union, even without being registered in Saskatchewan, may enter into an agreement, directly or indirectly, with a Saskatchewan credit union for permitting its members to use ATMs or other electronic facilities located in Saskatchewan. 311 This is a very important section in the 1985 Act. It shows us that

(1) not only that Saskatchewan credit unions but extra-provincial credit unions can use ATMs in this province;

(2) in order to use ATMs or other new equipment services, an extra-provincial credit union does not need to be registered in Saskatchewan;
(3) A extra-provincial credit union which enters into such an agreement with a Saskatchewan credit union cannot do other business in this province other than using ATMs.

Part XXI - Administration and General

This Part mainly includes the administrative obligations and powers of the Registrar; the contents of the regulations and the Acts which will not apply to credit unions. Section 222 provides that the Registrar will be appointed by the appropriate member of the Executive Council, instead of by the Deputy Minister of Co-operation and Co-operative Development as in the 1972 Act.

Part XXII - Deposit Guarantee Corporation

There are three changes dealing with the functions of the Corporation.

(i) The Corporation's powers towards credit unions are still inspection, supervision and administration. However, these powers are not provided for in a very detailed way; rather room is left for the Corporation's self-regulation.312

(ii) The Registrar can inspect, supervise and administer the activities of the Corporation.313

(iii) The Central's special position on the board of directors of the Corporation is recognized again. In the 1972
Act, the Central lost its privilege to occupy the majority of seats on the board and to name the chair of the board. Section 248 of the 1985 Act provides that of five directors in the board,

(1) two should be appointed by the Central;

(2) one should be the chief executive officer of the Central or his nominee;

(3) another two should be from each of the Provincial Departments of Co-operation and Co-operative Development and Finance. Obviously, the Central’s opinion over the nominees of the board can influence three of the five.

Part XXIII refers to the repeal of the former Act and the time that the 1985 Act comes into force.
Credit unions had two tasks when they were first established in North America. One was to help people become independent in an economic sense; another was to develop human potential and foster human dignity through the process of self-help; the social aspect. Traditionally, credit unions were to be small in size and locally organized, so they could easily serve small or medium size businesses. Through 50 years of development, however, credit unions have moved away from their traditional position to a considerable extent. They might not have been seen as a major threat to banks or other financial institutions if credit unions had stayed in their traditional areas. It is not easy to see why developing so many new services for their members would have also occurred if credit unions had retained their original objectives. Could it mean survival today if credit unions did not move out of their old shells? It might be asked whether it was possible for credit unions not to move away from their traditional path while the economy developed rapidly and people's needs towards the financial market also changed. These questions can be answered by analysing the evolution of the Saskatchewan Credit Union Act in this chapter.

From the 1937 Act to the 1985 Act, credit unions have

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developed a good deal. Different situations and different practices give the acts different features.

1937-1947 (The 1937 Act and Amendments)

The Credit Union Act was very simple during the period 1937 to 1947. Compared structurally with other later acts, it only contained a few parts. As to content, the provisions were very general and principled, because credit unions at that time were very simple and it could not be foreseen how credit unions would develop.

That the Registrar, as the Government representative, had strong powers over every aspect of credit unions was the important feature for the Credit Union Act at that time. It seems that the Registrar had considerable powers over credit unions to inspect and control them. Credit unions could not do anything without his/her approval. He/She made the standard bylaws for credit unions. Even if credit unions made the supplemental bylaws, they would not come into effect until approved by the Registrar. The Registrar may have been given so much power because 1) as few people in credit unions knew how to operate them well, it was necessary for the Registrar to control what was going on in credit unions; 2) on the other hand, credit union leaders, who were afraid of credit unions failing, thought that the Government’s control would help the stabilization of credit union development; 3)
the Great Depression placed the Government into a more important position, anyway. The Government might have considered credit unions as a good means to resolve economic problems.

As credit unions developed very slowly and as credit union leaders wanted stability, changes to the Act were also very slow and careful.

The Credit union Act during the period 1937-1947 reflects that the credit union movement in Saskatchewan was in the "Setting An Example Stage", which means that credit unions tried to present a good model to attract peoples' interest in the credit union movement. It was a successful period in the sense that it built a good foundation for credit union development later.

The model of the 1937 Act had been followed by all of the subsequent acts except the 1985 Act.

1948-1961 (The 1948 Act, the 1956 Act and Amendments)

The reason that I put the 1948 Act and the 1956 Act together to discuss here is that I think that they were in the same development stage, which can be called the "Spreading Stage".

1 The 1948 Act and Amendments
The features of credit union legislation during the period 1948-1955 were the following:

(a) Credit unions started to use "vouchers" (cheques).
(b) Credit unions needed to use districts to organize the expansion of credit unions.
(c) Some credit unions were required to use auditors. However, because peoples' attitudes towards the function of the auditing system were not unanimous in the Government and in credit unions, it was difficult to require by law at this time that every credit union has an auditor. 315
(d) Credit unions began to enlarge their lending powers. However, credit unions still limited their long-term loans as they were not strong enough to enter into the commercial lending area at this time.
(e) Credit unions at this stage developed very quickly, therefore, the amendments to the Act were also more frequent.

2 The 1956 Act and Amendments
(a) Credit unions started, expressly or impliedly, directly or indirectly, to be encouraged to engage in long-term lending by law.
(b) The membership to which credit unions could offer their services increased considerably.
(c) Federations of credit unions within and outside
Saskatchewan were strengthened considerably, especially in the late 1950s.

In sum, credit union development at this stage created a good situation for the "commercial, national, electronic and technological" credit union of the 1960s-1980s.

1962-1971 (The 1962 Act and Amendments)

The 1960s has been regarded by many credit union officials as a turning point in the history of credit union development because since that time the credit union movement, through its size, central functions and range of services, became a viable entity. This can be called the "Maturity Stage".

The features of credit union legislation during this period could be embodied in the following:

1 Credit unions organizational structures became complex and larger because of
   (i) more and larger individual credit unions;
   (ii) more amalgamations of credit unions;
   (iii) extended membership; and
   (iv) improvements in the situation of the Society, the League and other federations.

2 Credit union business operations became more specialized, this showed in the areas of
   (i) adding more services;
(ii) arranging and advocating commercial loans publicly;

(iii) changing accounting methods for dividends, loan interests and reserve funds to make the rates of dividends and loan interests higher and the rate of the reserve funds lower.

1972-1984 (The 1972 Act and Amendments)

The 1972 Act still adopted the model of the 1937 Act. During 1972 to 1984 the credit union movement rose to the "Extending Stage". The features of credit union legislation include the following:

1. The "bond of association" for credit union membership was changed gradually. Although the law still provided that credit unions only served their members, they actually could extend services to non-members, for the legislation allowed a credit union to serve corporations in which credit union members owned a majority of the shares or the majority shareholders were credit union members, etc.

2. Credit unions began to hire more experts to enable them to compete in the marketplace.

3. The Act transferred more powers on regulating credit union activities to the bylaws in order to give credit unions more flexibility. The Act also removed almost all of the limitations on credit union economic operations.
4 Credit union member demands of their credit unions changed considerably. One study carried out by J. G. Craig in the middle of 1970s showed that:

1) They (the members) want their credit unions to be effective in achieving a goal of being a safe place for people to deposit their money, and giving depositors a reasonable return (emphasis added), plus be a convenient place to obtain credit and other financial services at a reasonable rate.

2) Members want credit unions to do this efficiently. They want their credit union to use technological innovations to keep operating costs down with a minimum of frills ...

3) But, members also want their local credit unions or credit union branch offices, which they use regularly, to be responsive to member needs in that community.

These changed needs predicated changes in credit unions and in the relevant legislation.

5 The function and power of the board of directors in credit unions were emphasized more. The three-tiered organization structure designed by Desjardins began to be reformed.

6 Small credit unions became a problem for credit union development.

However, all changes made by credit unions in the commercial business area from 1972 to 1984 were slow and deliberate. For example, credit unions, for the sake of making more commercial loans, preferred the establishment of
the Saskatchewan Co-operative Financial Services rather than removing the limitations from the Act.

1985-1987 (The 1985 Act)

In the 1980s credit unions have entered into the "Changing Stage", for the movement has created many very different services for its members and may no longer be sensitive to the question of whether a credit union is similar to a bank. The features in the 1985 Act based on changes to credit union changes are the following:

1 The 1985 Act completely gives up the model of the 1937 Act in form. In fact, credit unions now are not the same pure and simple organizations as they were under the 1937 Act. They have become organizations somewhere between banks, traditional credit unions, trust and security companies and insurance companies.

2 In content, the Act gives more powers to credit unions themselves; this "self-regulation power" ensures more equal opportunities to credit unions in relation to their competitors. The Government does not want to control the credit union as much as before.

As early as the 1950s, the then Premier T. C. Douglas stated that the Provincial government should not administratively interfere with credit union activities too much, firstly because the Government could not do things in
place of credit unions doing them themselves; secondly because the Government did not have enough resources to do this kind of work for credit unions. However, these suggestions had not been realized up to the 1985 Act.

The "self-regulation power" is mainly embodied in the following ways:

1) The Act only states what credit unions shall not do, but not what credit unions shall do. So credit unions may do everything that the Act does not forbid; anything they need to do to compete.

2) The Act only provides for the limitations related to the special issues of shares for credit unions, but not to the common issues in order to leave room for the self-regulation of credit unions.

3) The Act only provides for the matters of principles rather than the matters of execution of the principles.

4) The credit union control system is:
   (i) the articles, the bylaws and the board of directors as the first line;
   (ii) the Corporation/CUMAB as the second line;
   (iii) Regulations as the third line; and
   (iv) the Registrar as the fourth line.

From this order, we can tell that credit unions have a good deal of "self-control". The articles' position in controlling a credit union is emphasized for the first time
in the 1985 Act. Regulations still provide for the important matters, according to the requirement of the Act. However, since the 1982 Regulations are still used now and have not been revised, objectively, the first line plays a very important role in credit union operations.

3 The Act completely gives up Desjardins’ three-tiered model of the board of directors – the credit committee – the supervisory committee. Instead, it adopts the form of the board of directors (including the credit committee and some other committees that the board thinks necessary to have) – auditor(s) – and the Corporation/CUMAB.

In some articles, writers chose to compare the 1985 Act only with the 1937 Act, as if other Acts had never existed. They were so surprised by how different these two Acts were. Indeed, the model of the 1937 Act influenced the subsequent Acts very much. In the sense that subsequent Acts followed the form of the 1937 Act, we could say that it may represent other Acts; and indeed, the 1985 Act is very much different if one compares it with the 1937 Act. But, I think through my analysis that those acts do have connections with each other. Any development or change is based on the former ones. The 1985 Act does not jump out directly from the shell of the 1937 Act. It has grown over a period of time from changes in other Acts. Obviously, credit unions today have become
complex business organizations. Credit unions may bear more of a resemblance to other types of business organizations than the original credit unions did.
FOOTNOTES FOR CHAPTER 2


3. Ibid., at 39.

4. See, Christine Purden, Agents For Change: Credit Unions In Saskatchewan, Modern Press, Saskatoon, Saskatchewan, 1980, at 49.

5. Ibid., at 49-50.


9. Cited from pamphlets of Credit Unions (1), 1940, in Saskatchewan Archives.

10. Supra, note 1, at 20.

11. It might be 1910 that the first credit union was established in Saskatchewan, according to the report of The Credit Union Way, October, 1962. However, in this article, I would choose to use the information in the book of 10 To 10: Canadian Credit Unions...From 10 Cents To 10 Billion Dollars In 75 Years, written by Fred McGinness, Southam Murray, 1976, at 35.

12. Ibid.


14. Before 1944, as the Department of Co-operation & Co-operative Development had not been established, the suggestions on changing the Credit Union Act would be sent to the Department of Agriculture of the Government of Saskatchewan.

15. See, Saskatchewan Credit Union News, issued by the Federation, Mar. 1945, Vol. 2, No. 3, in Saskatchewan Archives, No. 106 (3-33), 1 of 2 folders. After the
Society and the League was amalgamated in 1970, the suggestions on changing the Credit Union Act have come from the Central.

16. See, S.S. 1937, c. 25, s. 4.


18. See, Appendix I of this thesis.

19. See, Part V, Chapter 2 of this thesis.

20. Supra, note 16, s. 17.

21. Ibid., s. 46.

22. See, S.N.S. 1932, c. 11, s. 2(b).

23. Supra, note 16, s. 47.

24. Ibid., s. 34.

25. Ibid., s. 27(f).

26. Ibid., s. 40.

27. Ibid., s. 42.

28. Supra, note 4, at 92 [53].

29. See, analysis of the 1944 Amendment and the 1946 Amendment, Part III, Chapter 2 of this thesis.

30. Supra, note 16, s. 44.

31. Supra, note 4, at 62 [25].

32. Ibid., at 56-7.

33. Ibid., at 53.

34. Insertion emphasized. See, S.S. 1939, c. 30, s. 2.

35. Supra, note 22, s. 37.

36. Here refer to sections 16a, 77, 78 and Schedule Form C.

37. See, Part III, Chapter 2 of this thesis.
38. See, The Department Memo To T. C. Douglas, July 30, 1951, in Saskatchewan Archives, No. 120 (3-33), 2 of 4 folders.

39. See, S.S. 1941, c. 21, s. 5.

40. In 1944, CCF came to power in Saskatchewan. Its policies definitely was supportive of the credit union movement in the province.

41. Supra, note 4, at 72.

42. Supra, note 18.

43. See, S.S. 1944, c. 29, s. 2.

44. Ibid., s. 6.

45. See, S.S. 1945, c. 35, s. 2.

46. Ibid., ss. 4-5.

47. See, S.S. 1946, c. 27, ss. 2, 4.

48. Ibid., s. 5.

49. Ibid.

50. Ibid.

51. Supra, note 4, at 77-8.

52. See, S.S. 1947, c. 42, s. 5.

53. Ibid., s. 7.

54. See, S.S. 1948, c. 31, s. 32.

55. Ibid.

56. Ibid.

57. In 1951, a credit union in St. Gregor was discovered to have lost $35,000 because of its former treasurer's misappropriation. The treasurer was brought to court. Soon after, a similar case was found in Arran.

58. Supra, note 54, s. 39.

59. The "League" here refers to the Credit Union League of Saskatchewan, which had previously been known as the Credit Union Federation before 1948.
60. **Supra**, note 57.

61. **Supra**, note 54, s. 81(6).

62. **Supra**, note 18.

63. There were some cases which would show the function of the districts, e.g. *The Department Memo To T. C. Douglas: On Special Assistance To Weak Credit Unions*, Nov. 26, 1952, in Saskatchewan Archives, No. 111 (3-11), 2 of 3 folders.

64. See, S.S. 1950, c. 32, s. 5.

65. See, *The Department Memo To T. C. Douglas*, Nov. 28, 1949, in Saskatchewan Archives, No. 120 (3-33), 1 of 4 folders.


67. **Supra**, note 4, at 98.

68. Ibid., at 100.

69. Ibid., at 99.

70. **Supra**, note 66.

71. **Supra**, note 64, s. 4.


75. **Supra**, note 54, s. 38(a).

76. **Supra**, note 58.

77. **Supra**, note 2, at 196-8.

78. **Supra**, note 4, at 76.

79. See, S.S. 1951, c. 39, s. 6.
80. Ibid., s. 6(f). It provided that

...or other organization
operated exclusively for social
welfare, civic improvement,
pleasure or recreation or for
any other purpose except
profit, no part of the income
of which is payable to or
otherwise available for the
personal benefit of any
proprietor, member or
shareholder...

81. Emphasis added. See, The Department Memo To T. C.
Douglas, Oct. 30, 1951, in Saskatchewan Archives, No. 111
(3-11), 1 of 3 folders.

82. See, Chapter 3 of this thesis.

83. Supra, note 79, s. 9.

84. See, S.S. 1952, c. 47, s. 5.

85. Supra, note 4, at 84.

86. Supra, note 84, s. 5.

87. Supra, note 85; and see, The Department Memo To T. C.
Douglas, May 19, 1952, in Saskatchewan Archives, No. 111
(3-11), 2 of 3 folders.

88. See, The Department Memo To T. C. Douglas, July 15, 1952,
in Saskatchewan Archives, No. 111 (3-11), 2 of 3 folders.

89. See, The Department Memo To T. C. Douglas, section 4,
Nov. 4, 1952, in Saskatchewan Archives, No. 111 (3-11), 2
of 3 folders.

90. See, The Department Memo To T. C. Douglas, section 3,
Dec. 11, 1952, in Saskatchewan Archives, No. 111 (3-11),
2 of 3 folders.

91. Ibid., section 7.

92. See, Credit Union League’s Letter To T. C. Douglas, Sep.
22, 1953, in Saskatchewan Archives, No. 111 (3-11), 3 of
3 folders.

93. "No Renumeration" has been a principle of co-operatives
and credit unions since they were established.
94. See, S.S. 1954, c. 57, s. 4.

95. See. S.S. 1955, c. 53, s. 6.


97. Supra, note 57.


101. Supra, note 95, s. 14. It is worth noticing that section 43(a)-(b) used "order" or "other documents" instead of "cheque".

102. Supra, note 99.

103. This issue will be discussed in Chapter 3 of this thesis.

104. Supra, note 95, s. 15.

105. Supra, notes 99 and 100.

106. Supra, note 4, Chapter Four at 67-93; Chapter Five at 94-126.

107. See, S.S. 1956, c. 44, ss. 18, 26, 30, 50, 54, 70, 75, 81, 93, 100.

108. See. S.S. 1957, c. 65, ss. 4, 5.

109. Supra, note 106, ss. 57, 58.

110. See, S.S. 1960, c. 4, ss. 7, 8.

111. Supra, note 108, ss. 74a, 74b, 83a.

112. Section 60 of the 1956 Act provided that the maximum of loans to an individual member should not exceed 8% of a
credit union's paid-up capital, deposits and surplus. Section 3 of the 1958 Amendment made an exceptional lending rate 25% to a special member.

113. See, S.S. 1958, c. 2, s. 4; S.S. 1961, c. 47, s. 3.

114. See, The Department's Letter To All Credit Unions of Saskatchewan, April 14, 1958, in Saskatchewan Archives, No. A124, II. C. Credit Unions (ii). In question 3 of the said letter, it was said:

It will be noted that while the maximum of eight per cent still applies to a loan to an individual, loans in excess of this figure may be made to municipalities, etc., ... This will provide some leeway for the larger credit unions which are financially able to accommodate municipalities, etc., for their credit requirements.

115. Supra, note 108, ss. 2, 7; note 110, ss. 5, 6; note 113, ss. 2. 5.

116. See, The Department Memo To T. C. Douglas, Nov. 23, 1956, in Saskatchewan Archives, No. I11 (3-11), 3 of 3 folders. Before the 1957 Amendment was passed, the Government of Saskatchewan found that a number of credit unions had an increasing amount of idle funds, therefore, a wider investment program seemed desirable.

117. Supra, note 108, s. 3.

118. Supra, note 116.

119. Supra, note 4, at 111-3.

120. Supra, note 18.

121. Ibid.

122. Emphasis added. Also see, Supra, note 113, s. 11.

123. Supra, note 4, at 113-5. The conflict between CUNA and CUNA Mutual since the mid-1950s was a very important reason for establishing NACCU.

124. Supra, note 110, s. 2.
125. *Ibid.*, s. 11.

126. The reason for using "political benefit to credit unions of Canada" is that credit union national organizations made it possible for all credit unions in Canada to act together whenever they met attack from other interest groups. For example, see the attack from the bankers in the late 1950s.

127. *Supra*, note 4, Table 9, *Membership And Financial Trends In Saskatchewan Credit Unions*, at 131.

128. See, the features of the *Credit Union Act* during the period 1962-1971 in Part VIII, Chapter 2 of this thesis.

129. *Supra*, note 4, at 130. Since 1966, the increase of the credit union in membership, assets and loans slowed.


131. For example, in 1962, Fixed Deposit Accounts were introduced by the Society; in 1966, Term Deposit Accounts were introduced by Credit Unions; in 1967, Special Savings Accounts were introduced by Credit Unions; in 1968, Cash Dispensers, Forerunners of Automated Teller Machines were installed in some credit unions, and in 1969, CU-Check, a credit and cheque guarantee card of the credit union, was introduced, too.

132. *Supra*, note 4, at 133-7; also see Chapter 3 of this thesis. The problems could cover slow cash flow; the credit union's legal status and some doubts about credit union principles and objectives which arose from the credit union's large growth.


134. See, Part IV, Chapter 2 of this thesis.

135. The reasons for more credit unions being dissolved were competition from banks and other financial institutions; high costs from using the bank clearing system; cash flow problem and the use of new technical measures, etc.

136. See. S.S. 1962, c. 40, ss. 105, 106(5).


139. Section 107(5) provided for the general limitation on the liquidator's purchasing the assets from the dissolving credit union for which the liquidator acted. However, section 127(2) made an exception for CUMAB. It provided

(1) The mutual aid board may purchase the assets and assume the liabilities of a credit union that is in the process of dissolution and has sought, and in the opinion of the board requires, assistance from the fund.

(2) The power conferred by subsection (1) may, notwithstanding subsection (5) of section 107, be exercised whether or not the board has been appointed liquidator of the credit union.

Also see, ibid., s. 107(5).

140. CUMAF here refers to the Credit Union Mutual Aid Fund. Also see, supra, note 136, s. 117.

141. Ibid., s. 127.

142. Supra, note 140.

143. This can be seen from the Amendments to the Credit Union Act between 1963-1970. See, Part V, Chapter 2 of this thesis.

144. See, the cases and materials used in Chapter 3 of this thesis.

145. This matter can be proved by the following records:

(No. 6)
A suggestion has been received to the effect that the Act provide for membership by churches specifically. At present loans made for the use of churches are made to individual members of the parish or congregation who
guarantee the loan and turn the proceeds over to the church.

...Our impression is that the committee will be favourable to the suggestions except for No. 6 dealing with the membership of churches...

Also see The Department Memo To T. C. Douglas, Aug. 28, Sep. 20, 1956, in Saskatchewan Archives, No. 111 (3-11), 3 of 3 folders.

146. Supra, note 136, ss. 9, 11.

147. See, "Use of Bank, Banking Serious Matter", The Credit Union Way, Jan. 1965, at 8. Also see, Chapter 3 of this thesis.

148. See. S.S. 1963, c. 13, s. 2.

149. Ibid., s. 3.

150. See, S.S. 1964, c. 24, s. 5.

151. See, Part III, Chapter 2 of this thesis.

152. Supra, note 136, s. 68(1).

153. Supra, note 150, s. 3.

154. See, S.S. 1965, c. 14, s. 2(1)(b).

155. Ibid., s. 4.

156. See, S.S. 1966, c. 29, s. 3(4).

157. Supra, note 136, s. 21. It was provided that a credit union could borrow moneys not exceeding the aggregate 25% or 50% of its combined capital, surplus and deposits.

158. Supra, note 4, at 101.

159. See, S.S. 1967, c. 51, s. 4.

160. Supra, note 4, at 78. In 1947, the rate that Saskatchewan credit unions carried Loan Protection Insurance and Life Savings Insurance was the lowest among other Canadian provinces.
161. Ibid., at 79.
162. Supra, note 136, s. 141(1)(c).
163. See, S.S. 1968, c. 15, s. 12.
164. Ibid., s. 2(2), (3), (4).
165. Supra, note 163, s. 11.
166. Ibid., s. 3(b). It provided:

...where the combined paid-up capital and deposits of a credit union exceed $5,000,000 the board of directors thereof may, with the prior approval of the registrar, increase the value of the land and buildings acquired for the purpose of its business by a sum not exceeding $100,000 over the value of the fixed assets of the credit union as at the date of the previous annual meeting but such increase shall be ratified by resolution of the members passed at the next general meeting of the credit union.

167. These additions provided more varied types of loans for credit unions with different amounts of assets. In the past, the Act only provided the requirement of security to the loan not to exceed $1,000. But, in 1968, the amendments to sections 68 and 71 of the 1962 Act provided that loans could be made up to $2,000 with one condition – that only those credit unions whose assets were over $2,000,000 could make such loans.

168. Supra, note 163, s. 4.
169. The conditions for getting mortgage loans in the 1962 Act were: (1) the total assets of the borrower before the loan was made should not exceed $100,000; (2) the borrower must be the sole owner and proprietor of the mortgage for which he/she borrowed the money.

170. Supra, note 136, s. 62(2).
171. See, Chapter 3 of this thesis.
172. Supra, note 163, s. 2.
173. Supra, note 136, s. 42(3).
174. Ibid.
175. See, S.S. 1970, c. 11, s. 2(1).
176. Supra, note 4, at 135-6.
177. See, Part VIII, Chapter 2 of this thesis.

178. The difference on this matter between the 1962 Act, the 1968 Amendment and the 1970 Amendment is that the 1962 Act provided that at least 20% of the surplus should be left as the reserve fund; the 1968 Amendment changed 20% into not less than 15% of the surplus. However, the 1970 Amendment used "one half of 1% of the loans" and "not less than 5% of the outstanding loans" as the reserve fund. (Notice the different terms used at different times).

179. Supra, note 175, s. 3.

180. Ibid., ss. 5, 6. The change to section 117 of the 1962 Act in the 1970 Amendment was that CUMAB would determine the assessment and levy upon each credit union should not exceed one-fifth of 1% of the aggregate of the shares and deposits of each credit union, instead of "not exceed 5% of the surplus of each credit union" as in the past. Section 118 of the 1962 Act provided that assessments for the fund should be continued in accordance with section 117 "until the fund is equal to 1% of the total assets from time to time". But, the 1970 Amendment changed it into "until the fund is equal to such amount as the Board may determine from time to time".

181. Supra, note 4, at 146-54.

182. Supra, note 175, s. 4.


184. Ibid., at 188.

185. See, "The Western Growth", The Credit Union Way, Feb. 27, 1980, at 12. In 1979-1980, the country's real domestic product growth as a whole was only 1.1%. However, the growth rate of the four western provinces was 4%.
186. See, Appendix I of this thesis.

187. Ibid.


193. Supra, note 184.


196. The Bank Act should have been revised in 1977. But this actually happened at the end of 1980.


199. Supra, note 4, at 146; and at 121, note 34.


201. After the Society and the League were amalgamated into the Saskatchewan Credit Union Central in 1970, the name of "Society" was still used for a few years until 1979 when the new Credit Union Central Act was passed, the name of "Central" started to be used officially.


180
205. Ibid., at 191-3.


208. Supra, note 186.

209. Although the Small Loans Act limited credit unions to raise the interest rates of loans as high as banks could at that time and although every credit union had different policy for the interest rates of loans and deposits, credit unions did increase their interest rates in the 1970s under the pressure that banks increased their interest rates consistently.


211. I will analyse the matters of (5) and (6) later.


214. In May 27 of 1983, a discussion paper prepared by the Department of Co-operation & Co-operative Development in Saskatchewan listed the following questions:
Should the objects of a credit union extend beyond the promotion of thrift and the creation of a source of credit for its members?
Do credit unions need reserves for other than loan losses?
Should a credit union be permitted to issue preferred shares or debentures as a means of raising equity?
Is the concept of a common bond still valid?
Is legislation needed to provide some protection to credit unions and/or members under automated systems?


216. Supra, note 212.


219. Ibid., ss. 15, 21, 40.

220. They covered:

1) Restrictions on loans (ss. 52-66).

2) Uncollectible loans (s. 60).

3) Security for loans (s. 62).

4) Certain loans to be approved by a Central Committee of CUMAB (s. 65).

5) Loans to private companies to be guaranteed (s. 107).

6) Purchase of land and buildings (s. 107).

7) Borrowing powers (s. 108).

8) Duties of Supervisory Committee (ss. 69-70).


222. Supra, note 218, ss. 52-66.

223. Ibid., ss. 25, 82(1)(b), 61, 63, 65, 68, 73.

224. Ibid., s. 31(1)(d).

225. Ibid., s. 125(4).

226. Ibid., s. 121.

227. Ibid., s. 107(3) (4) (5).

228. Ibid., ss. 112, 113, 114, 118, 122.
229. Emphasis added.

230. Supra, note 218, ss. 62, 65. Section 62 provided:

    The total amount of all outstanding loans made by a credit union for the purchase of land and buildings and for business purposes shall not at any time exceed an amount equivalent to 25% of its combined paid-up capital and deposits unless otherwise authorized by supplemental bylaw of the credit union.

And section 65 provided:

    Excepts as otherwise approved by the registrar, a credit union shall not make any loan: (a) if the aggregate of its reserves consisting of cash on hand and on deposit with a chartered bank or with Saskatchewan Co-operative Credit Society Limited is less than 10% of its combined paid-up capital and deposits; or (b) if the members may withdraw funds standing to their credit by means of negotiable orders and the reserve to meet withdrawals is less than that stipulated in the bylaws.

231. Supra, note 4, at 199-201.

232. See, S.S. 1973, c. 22, s. 4.

233. See. S.S. 1976, c. 9, s. 2(4).


235. Supra, note 4, at 206.

236. Supra, note 234, s. 126.

237. Supra, note 4, at 202.
238. Supra, note 234, ss. 121, 122, 123.

239. Ibid., s. 124.

240. See, S.S. 1979-1980, c. 12, s. 3.

241. Some of provisions of the 1972 Act were changed in the 1978 Saskatchewan Revised Statutes. Therefore, for the sake of keeping consistency with the following Amendments after 1978, I also use the 1978 Act as a sample for comparison.


243. Ibid., s. 4.

244. Ibid., s. 8(a).

245. In other former Acts, it had always been said that credit unions would "pay directors and the committees members including their expenses on business...". However, it had never said directly that this payment was for their services to credit unions.

246. Supra, note 242, s. 6 "section 31(1)(d)". The 1972 Act only provided for the power to appoint the chairman of supervisory committee for a credit union.

247. Ibid., s. 6 "sections 31(1)(c) and 31.1(1)(a)".

248. Ibid., s. 12, "section 58(2)".

249. Ibid., s. 6 "section 31.1.(1)(b)".

250. Ibid., s. 15 "section 69(1)".

251. Ibid., s. 6 "section 31.1.(2)" and s. 15 "section 69".

252. Ibid., s. 16 "section 81".

253. Supra, note 210, at 22-3.


255. Supra, note 186.

256. See, Joan Crockatt, "Six Provincial Credit Unions Facing Financial difficulties", the (Saskatoon) Star Phoenix (6 April, 1985) at B10.

258. See, "Credit Unions Want More Freedom To Act", the (Saskatoon) Star Phoenix (9 April, 1985).


260. Supra, note 254.

261. See, S.S. 1985, cc-45, s. 182(a).

262. See, Dennis Schroeder, "New Credit Union Act Comes A Step Closer", The Credit Union Way, April 1984, at 20–1; and see, Rick Bionda, "Self-Accounting Control Functions Part of New Act", The Credit Union Way, May 1986, at 8, 29.

263. Supra, note 259.


265. Supra, note 259.

266. Ibid.

267. Ibid.

268. Supra, note 264.

269. Ibid.

270. Supra, note 261.

271. Ibid., s. 20(1).

272. Ibid., s. 19(2).

273. Ibid., s. 20(2).

274. Ibid., s. 30(1).

275. Ibid., ss. 35–39.

276. Ibid., s. 40.

277. Ibid., ss. 41–45.
278. Ibid., s. 48(1).
279. Ibid., s. 73.
280. Ibid., s. 66.
281. Ibid., s. 84(1).
282. Ibid., s. 105.
283. See, 23 July 82 C.C.45 Reg 1 s39.
284. In section 77 of the 1972 Act, only credit unions with a certain amount of assets were required to appoint an auditor. Others which did not have much in the way of assets would not be required to appoint one.
285. Supra, note 261, ss. 118-22.
286. Ibid., ss. 123-8.
287. Ibid., s. 124.
288. Ibid., s. 126.
289. Ibid., ss. 129-31.
290. Ibid., s. 141.
291. Ibid., s. 133.
292. Ibid., s. 135.
293. Ibid., s. 136.
294. Ibid., s. 151.
295. Ibid., s. 152.
296. Ibid., s. 153.
297. Ibid., s. 155.
298. Ibid., s. 158.
299. Ibid., ss. 160-161.
300. Ibid., s. 162.
301. Ibid., s. 169.
302. Ibid., ss. 184-189.
303. Ibid., s. 182(b).
304. Emphasis added. Also see ibid., s. 183(2).
305. Ibid., s. 183(1).
306. Ibid., ss. 195-6.
307. Ibid., ss. 197-200.
308. Ibid., s. 204(1).
309. Ibid., s. 209.
311. Ibid., s. 221.
312. Ibid., s. 249.
313. Ibid., ss. 260-262.
314. See, Part VI, Chapter 2 of this thesis.
315. During the period 1948-1961, the main problems experienced in using auditing services by credit unions were: (1) most credit unions claimed that they did not have enough money to pay the auditors; (2) credit unions had a difficult time to find the qualified "chartered" auditors for themselves. Also see, The Department Memo To T. C. Douglas, Feb. 20, 1952, in Saskatchewan Archives, No. 120 (3-33), 2 of 4 folders. Therefore, the Act could not force credit unions to appoint auditors. It provided that any credit union with share capital and deposits of $150,000 or more may appoint an auditor if desired. However, the Government found from experience that credit unions would not have taken any action on having the auditors except as required by the regulations. See, The Department Memo To T. C. Douglas, Feb. 8, 1955, in Saskatchewan Archives, No. 111 (3-11), 3 of 3 folders.
316. See, J. G. Craig, What Could Be...Credit Unions And Future, a paper presented at the Canadian Conference of Credit Union Executives, Harrison Hot Springs, B. C., Sep. 29 to Oct. 1, 1975, at 1.
317. Supra, note 258. It was said in the article:
He (Mr. Norm Bromberger) says the traditional "four pillars" of finance -- banking, credit unions, trust and insurance companies, and securities dealers -- are intermingling and it's time for "open legislation to allow the lines to blur between those institutions." (Emphasis added)

Mr. Bromberger, as we know, has been a very important leader of the Saskatchewan credit union movement. He has contributed much to the credit union theory and practice. So, his opinion is of some importance.

CHAPTER 3 -- PART I: INTRODUCTION TO THE LEGAL PROBLEMS OF CREDIT UNIONS

The legal issues concerning credit unions began during the early 1940s. As the credit union movement became larger, stronger, and also perhaps, more aggressive nationally, this resulted in some legislative problems for credit unions.

The taxation issue of Canadian co-operatives was raised since the late 1920s as the Income War Tax Act 1917 did not have a clear definition regarding the co-operative tax status in that whether co-operatives, within the meaning of the said Act, should be interpreted as "mutual business companies" to enjoy the certain tax exemption. In 1929 and 1930, the Supreme Court of Canada dealt with two cases which concerned the issue of the proper treatment of co-operative reserves under the Income War Tax Act 1917. The decisions made by the court still did not solve the problem about the co-operative tax status. Following these decisions, the Co-operative Union of Canada (CUC) was successful in persuading the Government to amend the Income War Tax Act to exempt co-operatives from income taxation. Thus, since the 1930s, co-operatives came under increasing attacks from other private business organizations.

The taxation issue of Canadian credit unions occurred in 1942. Some private grain traders raised the taxation issue in a fight against the western wheat pools to question the
taxation exemption of co-operative organizations under federal tax legislation. This criticism was basically directed towards co-operatives, but credit unions were also included. This was the first time that credit unions had met a challenge from other business organizations which were in competition with co-operatives and credit unions. Ms. Purden describes in detail the credit unions' attitude towards this attack:

Under existing legislation, credit unions were exempt from income tax, provided that they derived their income primarily from loans made to members. Credit union leaders were concerned that this exemption should continue, without being narrowly interpreted, and that it should be applied to centrals or federations, as well as local organizations. In addition, they considered that interest or dividends on members' shares should not be treated as items that were tax deductible at source.5

The Co-operative Union of Canada at that time acted as spokesperson for both the co-operatives and the credit unions. It presented a report to the Royal Commission On Co-operatives, organized specifically to look into this matter during the period 1944-45, arguing for the credit union position. It explained that credit unions, being co-operative organizations, were essentially different in purpose, ownership, and operation from privately owned corporations. Their net earnings or surpluses represented not profits, but rather, savings effected on behalf of members.
The practice of paying rebates on interest or patronage refunds was cited as evidence of the "non-profit" nature of credit unions and other co-operatives. The Royal Commission accepted the reasoning and also concluded that credit unions provided financial services at reasonable cost and offered an alternative source of short-term credit to people.⁶

The result was favorable to credit unions. The government agreed to maintain the existing exemption and also extended it to include credit union federations.

However, the problem was only superficially and temporarily resolved. Credit unions still suffered from other problems arising from the attitudes of local tax agencies⁷ and other organizations. For example, in 1946, a organization called the Income Tax Payers' Association, formed in Winnipeg during the private grain elevator companies attack on the co-operatives and credit unions in the early 1940s, started a propaganda attack on the co-operatives and credit unions again.⁸

There was little public interest in the tax question during the 1950s as the growth of co-operatives and credit unions had been ceased and some activities of them were declined.⁹

The taxation problem was raised again and became more intense in the 1960s and 1970s. The Equitable Income Tax Foundation (EITF), another organization opposed to credit
union tax exemptions, initiated and continued the fights with co-operatives and credit unions. It was argued by this organization that the co-operatives and credit unions had a competitive advantage over their ordinary business rivals because of discrimination in tax laws and that the advantage was so great as to enable them to drive their tax-paying competitors out of business.

Meanwhile, the co-operatives and credit unions argued that they did not enjoy special privileges in the income tax structure as their earnings, except for statutory reserves, were returned to their members and would be taxable in members' hands. They also pointed out that the co-operatives and credit unions, as everybody saw, did a good job in helping their members economically and socially, so that the imposition of taxes on credit unions as demanded by some critics would destroy the private initiative, charity and mutual help and would force credit unions to raise their interest rates.

Co-operatives and credit unions tried very hard to protect themselves from being additional taxed as their rivals insisted that credit unions should taxed on the same basis as chartered banks; and the new co-operatives which enjoyed the three-year exemption should be taxed, too. Behind the conflict, the two groups were busy lobbying both the federal government and the provincial governments.
However, the new tax legislation, passed on June 18, 1971, provided that from January 1, 1972 credit unions were subject to income tax in a manner similar to other corporations. A key item of concern was that dividends on share capital were not specifically referred to as a deductible expense item. Further changes were announced on December 6 of the same year. Credit unions would be allowed to qualify for the small business rate provided reserves did not exceed 5% of deposits and share capital. With the new tax legislation, credit unions lost their "privileged" tax position and have been placed in a more difficult position in competing with banks and other financial institutions. An analysis, which dealt with the credit union financial situation in the tax system as compared with some banks was, presented by Credit Union Central of Saskatchewan in 1981. The analysis showed that the credit unions in the province had the lowest before-tax profit, the lowest after-tax profit, yet paid more income tax than banks because banks had more experience in paying tax than credit unions.

Since 1971, the debate about the taxation of co-operatives and credit unions has been fairly quiet.

In the early 1950s, another challenge confronted credit unions, which was much more serious than the first. It concerned the question of whether the federal government or
the provincial governments had constitutionally jurisdiction over credit unions.

According to the records, the constitutional problem began with the bill called "An Act To Incorporate Canadian Co-operative Credit Society Limited", initiated by the co-operatives and credit unions in 1951 to assist in the development of the national credit union movement. T. C. Douglas analyzed why the federal government did not like the bill in his letter to Prof. Scott on September 5th, 1951. He said:

You probably know the story behind what's going on with reference to co-operative legislation. The Federal Government is not at all desirous of passing national co-operative legislation but they dare not come out and say so. Consequently they are following a much more subtle course of intimating to the co-operative organizations that the provincial legislation which they now enjoy is probably ultra vires and that if they continue to push for national legislation the whole question may come to the fore. This is especially true of credit union legislation. It has been suggested to the co-operatives that as long as the credit unions remain on a provincial basis the Federal authorities are prepared to put their blind eye to the telescope, but if the credit unions insist upon national legislation with a view to setting up a national credit society, then the Federal Government will have to take the position that the present provincial credit union legislation is ultra vires since it is engaging in banking because of the fact that members of these credit unions are allowed to write cheques against their accounts.
I believe they are simply using this threat of the possible invalidity of the legislation to intimidate the credit unions and to prevent them building up a national co-operative credit society. 19

Douglas also held that behind the Federal Government was the objection of the Bankers Association. 20

The other reason for the appearance of the constitutional problem was the enlargement of credit union membership permitted by sections 46 and 46a of the 1951 Amendment to the Saskatchewan Credit Union Act, which enlarged considerably the membership of credit unions.

The fight concerning constitutional authority over credit unions lasted for two years. Finally, the Co-operative Credit Association Act of Canada was passed in 1953. This Act was a compromise by the federal government to the provincial governments and the credit unions.

The constitutional problem was concerned with the jurisdiction over credit unions. It related to two questions:

(1) Did provincial governments have power to legislate credit unions or should the power be held by the federal government?

(2) If the federal government had the power, which legislation, the Bank Act or the Credit Union Act should credit unions be placed under?

Question (1) involved how to interpret Section 91, heads 15, 16, 18, 19 (particularly head 15) and Section 92, heads
11, 13, 16 of the British North America Act 1867 (hereafter referred to as the B.N.A. Act) and how to define "credit union". Was it a bank? a banking business? etc.

Question (2) concerned the federal government’s attitude, namely that the federal government did not want, or had missed the chance, to place credit unions under its control. Also, credit union rivals opposed having federal credit union legislation in case the credit union became too strong nationally to compete with. Credit unions themselves were afraid of being controlled by the federal government, too.

Therefore, in this chapter, I will analyse the definition of "credit union"; the cases concerning the legal status of credit unions and the opinions of the scholars and the official researchers.
CHAPTER 3 -- PART II: AN ANALYSIS OF VARIOUS CREDIT UNION NOTIONS

Introduction

A. F. Laidlaw in his paper "Co-operatives In The Year 2000" (1980) contends that co-operatives have gone through three crises during the history of their development. The first was a credibility crisis, in which few people in the beginning believed in or had much confidence in co-operatives. It took a long time and involved deliberate steps in order for co-operatives to win the acceptance of people. The second was the managerial crisis, which concerned the realization of the co-operative idea by running co-operative businesses successfully with good technical and management experience. The third was the ideological crisis, which arose from the doubts about the true purpose of co-operatives and whether they were really different from other kinds of enterprises. These crises have also been seen in the development of credit unions.

Following these three growth and change stages, the definition of a credit union has varied from time to time and also as between credit unions. People's attitude towards the original credit unions and the modern credit unions, if I can use these terms, has been reflected in various credit union notions.
Traditional Credit Union Definitions

In Canada and the United States, due to different understandings of credit unions, different needs for the people and different situations to address, definitions of credit unions have been somewhat varied. Some focused on the function of the credit union, some on superficial features and some only on the credit union purpose.

As was seen in Chapter 1, American credit unions from the beginning were established with their own style and based on an early American credit union definition.

R. F. Bergengren, an American credit union pioneer, gave this definition:

A credit union is a co-operative society, organized with definite membership limitations in accordance with the provisions of some State Law authorizing credit union organization and operating under the supervisions of some State Department; managed by a Board of Directors and Committees, chosen by and from the members (in elections in which each member has one vote and only one vote whatever his share holding), purposed to supply the members with a simple, convenient system for saving money (which stresses habitual saving and specializes in behalf of the member of the group who can save the least as well as the member who can save the most), making it possible for the members, with their own short-term credit problems at legitimate rates of interest; the interest paid by members on loans reverting to the members as dividends on their savings and as surplus.22
This definition covers the following aspects:

1. Co-operative nature;
2. Limited membership;
3. Supervision by the Government;
4. Saving money for solving members' credit problems;
5. Short-term loans with legitimate rates of interest;
6. Self-managed;
7. Dividends allowable.

These aspects represent features of American credit union and cover the nature, purposes and operating ways of credit unions. Mr. Bergengren also noted that:

The credit union is based on the theory that the banking system needs supplementing by the development of a plan which will specialize in the smallest individual units of saving and, at the same time, concern itself with problems of small credit, collectively of great importance, but individually so small that existing banking facilities cannot cope with them except at substantial loss.23

This definition was concerned with the function of (American) credit unions. Accordingly, a credit union was a bank in miniature, a bank scaled down to the possibility of universal service.24 As Rollie Thompson said:

(A credit union is) a small co-operative bank, receiving deposits from and making short-term loans to its members.25
That the credit union was a kind of bank or a supplement to banks was an opinion which prevailed mostly in the United States. However, Canadian credit unions have been afraid of using the word "bank" because they met several attacks on their constitutional status under the B.N.A.Act on this basis. 26

CUNA presented a credit union definition when it recommended the "Credit Union Act Model" 27 to all credit unions in Canada and in the United States in 1962. It emphasized the "nonprofit" and the "mutual benefit" aspects of credit unions:

A credit union is a co-operative nonprofit association, incorporated for the purpose of creating a source of credit at a fair and reasonable rate of interest, of encouraging habits of thrift among its members and of providing the opportunity for people to use and control their money for their mutual benefit.

Canadian credit unions, as I noted earlier, mostly took after the Nova Scotian model and employed the definition of credit union used there. 28 The Canadian definition, compared with the American one, placed more emphasis on community membership and the education of members. A pamphlet called "Credit Unions", published in 1947 by the Saskatchewan Department of Co-operation and Co-operative Development, 29 defined credit union as:

a co-operative society organized for the purpose of promoting thrift amongst its members, and creating for them a source
of credit for provident or productive purpose. In addition it educates the members in matters of finance and mutual self-help (emphasis added).

In sum, whatever the traditional American and Canadian credit union definitions were, they all emphasized the credit union’s social and economic purposes. As Jack Dublin said:

A credit union is a basic form of co-operative in which people can help themselves economically and learn to work together (emphasis added). 30

These definitions also showed that the credit union would only provide simple services: savings and loans. Between the two services, traditional credit unions emphasized savings. In addition, credit unions would not serve non-members, directly or indirectly. 31

Modern Credit Union Definitions

From the analysis of the Saskatchewan Credit Union Act development, we can see that credit unions have changed a lot since the 1970s. In consonance with this development, the credit union definition has evolved different emphases. The definition Ms. Purden gave in her book "Agents For Change" (1980) can be regarded as being the representative of modern views:

Credit unions are financial institutions of a special type. They are co-operative associations, formed primarily for the purpose of accumulating savings among members and extending credit to them. In performing this role, they closely resemble other conventional banking
facilities. Their uniqueness lies in their co-operative orientation, which has led them to develop organizational, operating, and ownership structures that are very different from those of other financial intermediaries. They have also inherited a sense of social responsibility that is characteristic of co-operative organizations.  

Purden's definition emphasizes the following points:

1 Credit unions are financial institutions;
2 Their basic economic purpose continues to be to enable their members to save and to borrow money;
3 Their services superficially are very much like those of banks;
4 Their co-operative nature and the social responsibility feature differentiate them from other financial institutions.

Point 3 is very important because it implies that credit unions in modern times initiates many new services which put them in the position of having people think of them as banks. As Prof. Axworthy points out when he analyzes people's attitudes today towards co-operative principles, many co-operatives, especially large ones, have come to resemble capitalist enterprises. The changes which have brought those new services to credit unions are based on the theory that the credit union should meet members' needs.

Credit unions continue to have social and economic purposes. But, the methods to realize these purposes have changed. For example, the limitations on membership (common/community bond, etc.) are no longer important to
credit unions; the lending activity is emphasized much more than before. In short, many concrete measures for enabling credit unions to compete with other financial institutions have been adopted. The modern credit union pays more attention to members' needs and new services and does not care so much about whether it resembles a bank.
CHAPTER 3 -- PART III: CASES RELATING TO THE LEGAL STATUS OF CREDIT UNIONS

There have been different cases which are concerned with credit unions. Of these, three kinds of cases are related to the question of whether a credit union is a bank. They are the cases concerning the credit union constitutional status; the cases about the credit union tax status and the cases of whether the document issued by a credit union against its member's account is a cheque.

On The Credit Union Constitutional Position

In 1966, a suit questioning the credit union constitutional status appeared before the Saskatchewan Court of Queen's Bench in Saskatoon. The plaintiff, La Caisse Populaire Notre Dame Limitee brought the suit to seek a judgment for $10,000 plus interest against Emilien Moyen of Zenon Park. It claimed that the defendant should repay the amount specified in two promissory notes signed by Mr. Moyen, part of which involved an overdraft.

In his defence, the defendant stated three points: One of them dealt directly with whether the provincial government, under section 91, heads 15, 16, 18, 19 of the B.N.A.Act, had the power to enact the Saskatchewan Credit Union Act under which credit unions, including the plaintiff,
were incorporated and gained their legal status to carry out their "banking" business; in another words, whether the Credit Union Act was ultra vires the power of the Legislature of Saskatchewan.

Tucker J. first expounded that on constitution matters, whenever federal legislation overlapped with similar provincial legislation, the doctrine of "the Dominion legislation must prevail". However, when the subjects in one aspect and for one purpose fall within section 92 of the B.N.A.Act but in another aspect and for another purpose fall within section 91 of the B.N.A.Act, the doctrine of "pith and substance" should be used. Therefore, It was necessary to determine what the "pith and substance" of the Credit Union Act was also.

Before he went on to determine the "pith and substance" of the Credit Union Act, Tucker J. also discussed the meanings of "banking" and "bank" in section 91 of the B.N.A.Act. He tried to prove that as "banking" covered such a wide business application, it was very hard for the courts to decide that any organization which carried out some of the "banking" business was a bank. Besides, section 157 of the Bank Act, in addition to other laws, did not preclude other financial institutions other than banks from carrying out banking business. Tucker J., therefore, advocated using a "legislative purpose and practical effect" standard to
determine the nature of the business that the credit union carried out. 40

His conclusion was:

(1) The "pith and substance" of the Credit Union Act was to limit the credit union operation within Saskatchewan for local and the provincial purposes, which was in accordance with section 92, heads 11, 13 and 16.

(2) According to the "legislative purpose and practical effect", the true object, purpose, nature and character of the Credit Union Act was very different from that of the Bank Act. So there was no conflict between the two Acts.

(3) In practice, the federal government had not made any law, which might be in conflict with the Credit Union Act. In contrast, the federal government actually accepted the credit union as an organization different from a bank, because before the Bank Act was re-enacted in 1954 credit unions existed already and had carried on "banking" business. If the federal government had held that credit unions were banks, it would have placed them under the Bank Act control. In fact, the enactment of the Co-operative Credit Society Act, 1953 showed that the federal government recognized credit unions as co-operative organizations but not as banks.

Finally, Tucker J. said:

I am satisfied that although the Credit Union Act sets up corporations which may engage in "banking" its pith and substance is to provide for a means
whereby its members may be encouraged to
save and use savings to assist each other
and the powers given to it to engage in
activities which banks are authorized to
engage in are only ancillary to the
carrying out of such a purpose, and so
not an intrusion into the federal field
of s. 91(15) and therefore it is intra
vires the Province under s. 92(11) and
(13). 41

On The Question of Credit Union Tax Status

There have been a few cases dealing with the legal
status of credit unions regarding their tax position.
Usually, they involve the fact that local tax assessment
agencies have required credit unions to pay their "banking
business" or other kind of business taxation. The credit
unions did not agree with the tax officials as they did not
think that they were banks or any other kind of business to
be taxed under The Assessment Acts.

All of the cases discussed how to determine the nature
of the business that the credit unions carried on. The judges
were busy discussing (1) whether or not the credit union was
a bank; (2) whether they had been conducting a banking
business; (3) or, performing financial business.

The case of Stouffville District Credit Union Ltd. v.
Village of Stouffville concluded that the credit union in
this case did not carry on the business of a banker within
the meaning of The Assessment Act so it should not be taxed
for its "banking business" as the assessment officials
thought. However, Lieff J. further concluded that the credit union should be properly assessed as a "financial business" within the meaning of same Act, because it did make profits for its members. For example, the share account of the members was in the nature of an investment.42

Evans J. applied an even stricter standard regarding the business nature of credit unions when he dealt with the case of Re Windsor-Essex County Real Estate Bd. and Windsor. He said:

It is quite possible for a business to be liable to assessment and taxation without any intention of making a profit (emphasis added) and in my opinion the true test is whether in the light of all the circumstances surrounding the activity, such activity is a truly commercial activity. There is no doubt that an intention to make a profit will be a very important factor in determining whether an activity is a commercial activity but the lack of it does not automatically prevent it from being so characterized.43

Haines J. applied different reasoning in Re St. Mary's Parish (Kitchener) Credit Union and Kitchener. He concluded that the preponderant purpose of the credit union, the applicant in the case, was to provide loans to its members at the lowest possible cost, rather than to earn profits, so it was not a "business" or "financial business" within the meaning of The Assessment Act.44

Dupont J. used the test of "primary or predominant purpose" to judge the nature of credit union activity in
The main, dominant or preponderant purpose of the credit union is to provide loans to members for provident and productive purposes, at a low cost, thus not a "business" or "financial business" within the meaning of the Assessment Act.

There is no doubt that the volume and extent of the applicant's activities appear on the surface to be commercial in nature. The transcript certainly indicates that the applicant is more competitive in the financial field than was the case in the Stouffville and St. Mary's cases. However, an important factor to consider is whether the applicant is actually limiting its activities within s. 8 of the (Assessment) Act thus remaining within the confines of the original objects of incorporation, even if membership is high in number, and capital asset figures extensive (emphasis added).45

Dupont J.'s application of "primary or predominant purpose" test regarding nature of credit union activity was confirmed in the Supreme Court of Canada in 1983.46 McIntyre J. indicated the court's opposition to a commercial activity test to determine the nature of credit union activities. He said:

The commercial activity test, as expressed by Evans J.A., requires a consideration and an evaluation of all factors in order to determine whether in reality the corporation is of a true commercial nature. ... I do not reject such a suggestion but, if it is applied to determine whether an enterprise is of a commercial nature, difficulties will arise. Many community and charitable
organizations, relying from time to time on what would be termed commercial activity to raise funds for the fulfilment of their objectives, could be classed as businesses by such a test.\textsuperscript{47}

All the judges in these cases used the test laid down in \textit{Maple Leaf Services v. Essa}, which held that the preponderant purpose of the activity in which the corporation/organization was engaged would determine its liability for assessment and whether it was a "business" or not.\textsuperscript{48} Concretely, the following methods were used to determine the issue of the credit union tax status by the courts:

1. whether profits were made or intended;
2. what the details of the objects of incorporation were;
3. whether patronage rebate payments were made;
4. whether the corporation had share capital upon which dividends were paid, further, whether any one had a proprietary interest or not in the corporation;
5. how fast the rate of membership grew.\textsuperscript{49}

\textbf{On The "Cheque" Problem}

Is the document signed by a credit union member a cheque or does it have the same function as a cheque does when issued by a bank? There have been a great many arguments and many opinions. Prof. C. S. Axworthy has made a very clear survey and analysis on this matter already.\textsuperscript{50}
Two illustrative cases, Bank of Nova Scotia v. Sanborne and Duncan & District Credit Union v. Greater Victoria Savings Credit Union are concerned with the credit union cheque problem. Both concern two questions: (1) was the credit union a bank? (2) even if the credit union was a bank, would the document issued by it against a member's account in the credit union be treated as a cheque under the meaning of the Bills of Exchange Act?

Cashman J. in the Bank of Nova Scotia case argued that the credit union might be a bank according to the meaning of Section 4 of the Bank Act, which said:

4. This Act applies to each bank named in Schedule A and does not apply to any other bank (emphasis added).

So, the credit union might be a bank, catalogued as "any other bank". Also, because the credit union was engaged in banking business, under the law merchant of the common law, it was a bank in the popular sense. However, Cashman J. also pointed out that the credit union was not a bank under the meaning of section 2 of the Bills of Exchange Act because The Interpretation Act provided that a "bank" or "chartered bank" was a bank to which the Bank Act applied.

Furthermore, the document issued by the credit union against a member's account was not a cheque under the meaning of the Bills of Exchange Act, as section 165(1) of the Act provided:
165(1) A cheque is a bill of exchange drawn on a bank, payable on demand.

In the case of Duncan & District, the plaintiff, a credit union, tried to argue that the document issued by the credit union, even though it was not a cheque according to the definition in the Bills of Exchange Act, could be treated as a cheque under the meaning of section 17(1) of same Act. However, Ruttan J insisted on following the decision of the Bank of Nova Scotia case.\textsuperscript{55}

Certainly, the courts which did not treat the document issued by the credit union as a cheque could not discount the fact that the chartered banks in Canada treated the documents of credit unions as cheques at that time, for credit unions maintained their accounts at the chartered banks for clearing purposes.\textsuperscript{56}

However, the issue of whether the documents issued by credit unions were cheques was finally solved around 1980 when the Bills of Exchange Act was amended.\textsuperscript{57}

In sum, all of the above cases concluded that the credit union was not a bank under the meaning of the Bank Act.
CHAPTER 3 -- PART IV: THE OPINIONS ON THE CONSTITUTIONAL
POSITION OF CREDIT UNIONS FROM SOME
SCHOLARS

The constitutional problem concerning credit unions was first raised in the early 1950s. The rapid extension of the credit union movement required credit unions to organize the Co-operative Credit Society. The Saskatchewan Co-operative Credit Society Limited, formed in 1941, was the first of this kind in Canada. Later on, similar organizations were established in Ontario and Manitoba, etc. When these provinces organized such credit societies, they did not meet any serious constitutional question. Actually, the Saskatchewan Legislature did discuss the possibility of the related Act being *ultra vires* within its jurisdiction. But, the conclusion was in the affirmative because credit unions contended that the Act dealt primarily with loans and deposits. Therefore, it was only a matter of property and civil rights under section 92 of the *B.N.A.Act.*

After 1946, the demand for the further extension of the credit societies to the national level arose. Late in 1950, representatives of six regions in Canada, acting on instructions from The Co-operative Union of Canada, and with the support of other co-operative bodies, took steps to have a Canadian Co-operative Credit Society incorporated by an Act of the Parliament of Canada. As the Bill involved financial
matters it was referred to the Department of Finance. The Minister of Finance raised the constitutional question. He said:

We are now advised that this Company (the Credit Society), if it carries out the objects for which it is to be incorporated, will be engaged in the business of banking. If, therefore, the legislation is proceeded with, the Government of Canada would feel obliged to take the position that the corporation in question is a bank and should be brought within the existing banking legislation.

The federal government's attitude could be summed up as follows:

(1) The government could not support the Bill, and could not afford not to oppose it. Actually, the government could not at that time state precisely what would be done in the event that the constitutional question of the provincial credit union legislation arose because of the Bill;

(2) There was a category of dominion companies including banks, loan, trust and insurance companies which were subject to rigid government supervision and inspection. And, the government would regard the Canadian Co-operative Credit Society as coming within that category and requiring the same rigid government supervision and inspection;

(3) As the foundation of the national society would be the provincial credit societies, any supervision and inspection, to be adequate, would have to extend to the provincial
societies which were incorporated and operated under provincial laws. To make such supervision and inspection effective the legal and financial soundness of the provincial societies would have to be under constant examination, and it might be necessary to question the validity and adequacy of the applicable provincial laws. But, the government was not prepared to put itself in a position where it might have to interfere in a provincial matter of this kind as it was anxious to promote good Dominion-Provincial relationships in the national interest. Furthermore, credit unions and credit societies were provincial institutions and the federal government did not consider that parliament should legislate with respect to such institutions to either expand or curtail their activities.

(4) The government did not want to state that the provincial societies were acting ultra vires, and was not prepared to initiate a reference to the Supreme Court of Canada. However, under the B.N.A.Act, exclusive jurisdiction with respect to banking was given to the Dominion Parliament, and the government was not prepared to recommend a constitutional amendment which would have the effect of sharing such jurisdiction with the provinces.

In short, as T. C. Douglas pointed out, the federal government did not want to have such a Act but dare not speak out directly against it.
The attitude that the federal government adopted really worried the credit unions and the co-operatives. It also worried the provincial governments, as the matter related to provincial jurisdiction over credit unions, which the provinces had already by that time, and related to the development of the credit union movement on a national scale. Especially in Saskatchewan, as the provincial government at that time was very supportive the co-operative and credit union movements, any matter disturbed co-operatives and credit unions would worry the government, too.60

Prof. Bora Laskin, School of Law, University of Toronto; Dean F. C. Cronkite, School of Law, University of Saskatchewan and Prof. F. R. Scott, Faculty of Law, McGill University were asked by the then Saskatchewan Premier Douglas in late 1951 to give their personal opinions on this issue.61

They were asked the following questions:

(a) Was the Credit Union Act at that time ultra vires in whole or in part? If so, what part or parts and for what reason? If so, What legislative amendments would be necessary in order to render the statute intra vires?

(b) Was An Act to Incorporate Saskatchewan Co-operative Credit Society Limited ultra vires in whole or in part? If so, what part or parts, and for what reason? If so, what
legislative amendments would be necessary in order to render
the statute intra vires?
(c) The Saskatchewan Co-operative Credit Society having been
registered as an extra provincial company in the Province of
Alberta: were inter-provincial corporate acts (as between
Saskatchewan and Alberta) of this company intra vires?
(d) Would a draft bill entitled An Act to Incorporate
Canadian Co-operative Credit Society Limited, if enacted as
law, empower the company to do acts falling under Head 15 of
section 91 of the B.N.A.Act or any other Head of the said
section?

To answer these questions, the three scholars analyzed
the following aspects related to credit union constitutional
status.

Prof. Scott first asked the question of whether a credit
union was a bank, or a savings bank. He assumed three
different possibilities and consequences. (i) If credit
unions were banks, or savings banks, then, the Saskatchewan
Credit Union Act was ultra vires without considering whether
the federal government had or had not legislated in this
area; (ii) If credit unions were not banks, or savings banks,
but only carried on some aspects of banking which were merely
incidental to some other purpose and in a manner not contrary
to any federal law, then the Act would be valid and intra
vires; (iii) If credit unions were neither banks nor savings
banks but some companies such as the money lenders in the
pith and substance of their business, which fell within what
had been called the unoccupied field, then until a federal
law was made under a specified power in section 91 the
provincial laws should be valid. Prof. Scott concluded that
credit unions belonged to the third category as they were
different from banks and savings banks, but not so different
as to bear no relation to them. Therefore, before the federal
government occupied this field or used any law, e.g. the Bank
Act to forbid credit union business, the Credit Union Act
enacted by the provincial government had no unconstitutional
parts and was intra vires.

Dean Cronkite started his analysis from a different
point. He tried to assess whether or not the Saskatchewan
Credit Union Act was in conflict with any existing related
federal laws. If it was, the federal law definitely should
prevail. The following acts were examined by him: the Bank
Act,62 the Trust Companies Act,63 the Interest Act,64 and the
Money Lenders Act.65 His conclusion was that no single
provision of any of these Acts was in conflict with the said
Credit Union Act. Further, he pointed out that it was not
enough to prove the Credit Union Act was not in conflict with
the federal laws because if the pith and substance of the
Credit Union Act or its "real nature" was subject to the
federal jurisdiction, even if the federal government had not
made such a law yet, it did not mean that the provincial
government could legislate in this area. His analysis showed
that the **Credit Union Act** was not **ultra vires** as it related
only to the local matters which were accordance with section
92, Heads 11, 13 and 16. Even if the activities of credit
unions provided in the **Credit Union Act** were similar to those
of some banks according to the "aspect theory" which was
used in the case of **Hodge v. The Queen**, the "real nature"
of the **Credit Union Act** was still for local purposes and the
"banking" activities were merely incidental to the local
purposes.

Both Prof. Scott and Dean Cronkite considered that the
documents issued by credit unions against their members' accounts were not cheques within the meaning of the **Bills of Exchange Act**. Prof. Scott said that even if the said documents were cheques, that would have nothing to do with the credit union constitutional status.

Prof. Laskin came to the same conclusion as the other two scholars, but mainly focussed on the characteristics of credit unions according to the provisions of the **Credit Union Act**, which distinguished credit unions from banks. He concluded that credit unions had non-commercial and non-public characteristics because they were controlled by the members themselves; the loans they made were only for mutual aid; the management of credit unions was mostly
carried out by their members' volunteer work. In addition, and the most important was that credit unions served only their members who were limited to certain local groups. These characteristics made credit unions different from banks. Therefore, the Credit Union Act came within section 92, not section 91.

Obviously, all of the examinations above were based on analysing the purpose and nature of credit unions and of the Credit Union Act. In contrast, the opponents to provincial credit union legislation always attacked credit unions on the basis of their superficial activities, which seemed similar in some respects to those of banks. For example, J. C. Treleaven, the Acting Deputy Attorney General of Saskatchewan Government by that time, wrote to B. N. Arnason, the Deputy Minister of Co-operation and Co-operative Development, on July 23rd, 1951, at the time when the question of ultra vires arose. He expressed the view that the credit union legislation enacted by the province would be held to be ultra vires as it authorized a credit union to create a source of credit for its members by receiving deposits, making loans and allowing deposits to be withdrawn by cheque or bill of exchange or otherwise. He also tested a lot of cases and concluded that as the business of a credit union was banking in "pith and substance", the Credit Union Act was beyond the
powers of the province to authorize such, and in addition the province could not give such powers to a corporation.\(^6\)

In sum, the conclusions obtained by these scholars above, who were constitutional law experts, inclined to favor credit unions, and eventually supported the provincial government strongly. Their general opinion was that the provincial credit union legislation was *intra vires* the provincial jurisdiction because the nature of the credit union business was for local and provincial purposes. They accepted that there were a few doubtful points existing on the credit union business, such as cheques or other kinds of "banking" activities, however, they would not influence the nature of the business.

What kind of conclusion would these scholars have come to if they had seen the numerous changes to credit union business after the 1970s? Would they still insist on the view that the nature of the credit union business was for local and provincial purposes once the national credit union movement spread much more widely than was the case at the time that these scholars researched the issue? In other words, should we use the standard of "pith and substance" to test the nature of the credit union business today? If so, the opinions of these scholars are very useful. Otherwise, people have to find new method to solve this problem.
FOOTNOTES FOR CHAPTER 3


5. See, Christine Purden, Agents For Change: Credit Unions In Saskatchewan, Modern Press, Saskatoon, Saskatchewan, 1980, at 86.

6. Ibid., at 87.

7. Ibid.


12. Ibid.


15. Ibid., at 21-4.


18. See, Part IV, Chapter 3 of this thesis.

19. See, T. C. Douglas' Letter To Prof. F. R. Scott, Sep. 5th, 1951, in Saskatchewan Archives, No. 111 (3-11), 1 of 3 folders.

20. Ibid.


24. Ibid., at 3.


26. See, Part I, II and IV, Chapter 3 of this thesis.

27. See, Comparative Digest of Credit Union Acts, Credit Union National Association, Hamilton, Ontario, 1962, at 45.

28. See, The analysis of the Nova Scotia Credit Union Act 1932, in Part II, Chapter 1 of this thesis.

29. The pamphlet mentioned here can be found in Saskatchewan Archives, No. 106 (3-3), 1 of 2 folders.


32. Supra, note 5, at 1.

34. See, Part VI-VIII, Chapter 2 of this thesis. These three Parts discuss the new services that credit unions have added. Also see, J. G. Craig, What Could Be... Credit Unions and The Future, a paper presented at the Canadian Conference of Credit Union Executives, Harrison Hot Springs, B. C., Sep. 29 to Oct. 1, 1975, at 1.

35. See, Part VII, VIII, Chapter 2 of this thesis.


39. Ibid., at 127-31.

40. Ibid., at 139.


42. See, Stouffville District Credit Union Ltd. v. Stouffville, 1966] 56 D. L. R. (2d) 103 (Ont. H. C.) at 116.


44. See, Re St. Mary’s Parish (Kitchener) Credit Union & Kitchener, [1968] 70 D. L. R. (2d) 676 (C. A.)


47. Ibid., at 600.

49. Supra, note 45, at 205.

50. Axworthy, supra, note 41, at 94-7.


52. See, Duncan & District Credit Union v. Greater Victoria Savings Credit Union, [1978] 3 W. W. R. 570 (B. C. S. C.)

53. Supra, note 51, at 77.

54. Ibid., at 83.

55. Supra, note 52, at 571-2.

56. Axworthy, Supra, note 41, at 96.

57. See, Chapter 4 of thesis.

58. See, The Department Memo Re Constitutional Problem Confronting Co-operative Credit Societies & Credit Unions, July 20, 1951, in Saskatchewan Archives, No. 120 (3-33), 2 of 4 folders.

59. Ibid., see the quotation from the letter of the Minister of Finance to the Co-operative Union of Canada, Mar. 5, 1951.

60. T. C. Douglas wrote Prof. Scott on Oct. 23, 1951. This letter can be found in Saskatchewan Archives, No. 111(3-11), 1 of 3 folders. In the letter, he said that:

... the leaders of co-operatives and credit unions are worried lest by asking for a Dominion Charter they lose the provincial legislation which they now have.

Personally, I am convinced that the Federal Government does not dare to challenge the existing legislation and that they are merely using them as a threat to dissuade the co-operatives from seeking Federal legislation.

Douglas also said that:
the co-operatives are jittery and have been frightened by the suggestion that the legislation under which they are operating is not valid. Some of the directors feel that they may find themselves in an awkward situation later on and for that reason have asked us to get confidential opinion with regard to our legislation.

See supra, note 19.

61. The letters I mentioned here can be found in Saskatchewan Archives, No. 111 (3-11), 1 and 2 of 3 folders.

62. See, the Bank Act, R. S. C. 1927, c. 12.

63. See, the Trust Companies Act, R. S. C. 1927, c. 29.

64. See, the Interest Act, R. S. C. 1927, c. 102.

65. See, the Money Lenders Act, R. S. C. 1927, c. 135.

66. Supra, note 37.

67. Supra, note 61.
CHAPTER 4 -- CONCLUSION

From this analysis of the development of the credit union movement and the evolution of the Saskatchewan Credit Union Act two questions arise that are interesting and very important for credit union development. Question one concerns the doubt about the nature of credit unions in modern times: are credit unions still credit unions according to the original meaning? Question two concerns the argument about the federal government's power over credit unions. The matter at issue actually occurred from the 1940s and became serious in the 1960s. The second question dates from the 1950s. The first question arises from the phenomena that credit unions have changed a great deal over time. These changes appeared so quickly, especially during the 1970s, that people naturally asked where credit unions would go. Even some within credit unions asked themselves this same question. Relating to the first question, from the rapid extension of the credit union movement arose legal problems for credit unions, such as the legitimacy of the "cheques" issued by credit unions; the taxation status of credit unions and so on. The second question relates to whether credit unions at the present time need to be legislated by the federal government: this question can be asked in addition to the question about which government has jurisdictional power over...
credit unions. Desjardins sought federal legislation for credit unions. The opponents of credit unions also tried to place credit unions under federal legislative control. However, the federal legislation that credit union opponents were interested in applying to credit unions was the federal Bank Act. Desjardins was seeking special federal credit union legislation.

How can these two questions be addressed?

1 On the Nature of Present Credit Unions

The analysis of the Saskatchewan Credit Union Act shows that the Saskatchewan credit union movement has passed through five stages. The major changes began in the early 1970s. These changes were related to broader aspects, but basically involved the enlargement of credit union services and credit union membership. Since the 1970s, credit unions appear no longer sensitive to the question of whether or not they resemble banks.

The main focus of credit unions in the 1970s involved "competing and reforming". Credit unions were subjected to great pressure arising from an objective competitive situation which had become much more intense than before. It seems to me that credit unions at that time had to change themselves and struggled for survival. This perhaps was the real reason for their changes. Under such conditions, credit unions advocated a new slogan: "changing to meet the members'
needs". Based on this slogan, credit unions created many new services through which they could compete with banks and other financial institutions. Credit unions and co-operatives even attempted to have a co-operative bank in order to get rid of the banks' control and conflicts between credit unions and banks flowing from the need for credit unions to rely upon the bank clearing systems. Credit unions also started to study management techniques and to gain other knowledge in order to improve their operational efficiency. For example, they began to study taxation problems. The creation of new services results in the criticism that credit unions have completely changed their original direction and have become, in effect, real banks.

The National Association of Canadian Credit Unions, in its report to the Royal Commission On Banking And Finance, 1962, pointed out:

The role of credit unions is not to engage in banking. They may perform from time to time operations which appear to be similar to some of those performed by banks - but those operations are also similar to operations of many financial institutions which clearly are not banks - yet credit unions are not any of these kinds of institutions either. They have unique characteristics of organization which have already been fully described.

They develop in those fields where their members have a need which most usefully and effectively can be solved by mutual self-help. This allows for variation but
It is apparent that changes to credit unions up until 1962 were limited. Therefore, the conclusion reached in the NACU report is reasonable. However, an analysis of the evolution of the Saskatchewan Credit Union Act during 1972-1984 shows that credit unions began to change a good deal in the 1970s. These changes have made credit unions more like banks.

Some of the co-operative principles, such as "No Remuneration To Elected Officials", "Education Of Members About Co-operative Principles" and "Limited Return On Capital", play less important roles in credit union operations today. For example, the principles of "Democratic Control"; "Service Only To Members" and "Open and Voluntary Membership" are provided for by the Saskatchewan Credit Union Act and make credit unions different from other financial institutions. Practically speaking however, sometimes these principles cannot be readily adhered to by credit unions. As credit union members do not generally attend the meetings or deal with matters of credit union management, the principle of "Democratic Control" is actually hardly realized. This problem has troubled credit unions since the 1970s and might become more serious for credit unions in the future if they still want to retain their co-operative principles.

However, according to the provisions of credit union
legislation, credit unions are still required to operate on the basis of the co-operative principles of "Democratic Control", "Service Only Members", "Open and Voluntary Membership" and "Limited Return On Capital". These principles make it possible for credit unions to keep their economic and social functions. To retain these basic co-operative principles in the Credit Union Act and in credit union practice is very important if credit unions are not to lose their co-operative nature. If credit unions gave up these principles completely they would certainly be similar to banks, therefore, they might be possibly treated as banks. In other words, the only difference between credit unions and banks nowadays is that credit unions still hold co-operative principles, even if they are held mostly in theory. The fact that these principles remain in the Credit Union Act shows on the one hand, that credit unions still want to follow the co-operative way. On the other hand, because the co-operative principles are provided for by the Credit Union Act credit unions have to abide by the principles. Otherwise, the principles could be removed from the Act. This is what occurred during the 1950s when the credit union changed its policy prohibiting commercial loans. Even though in practice the principles as provided for by the Credit Union Act are not very well followed by credit unions, credit unions have
tried to solve problems which prevent them from realizing the principles.

Therefore, modern credit unions can be defined as co-operative financial institutions which are specifically organized to create a credit vehicle so that members may meet their various needs.

This definition first emphasizes the co-operative nature of credit unions, which makes credit unions different from other kinds of financial institutions. Retaining this nature is very important for credit unions. It ensures that credit unions remain grounded in their economic and social purposes.

Secondly, credit unions operate within the financial area, especially with lending activities. My definition does not require that loans made by credit unions should only be for provident and productive purposes as the traditional credit union definitions emphasized. Further, the definition put forward in this thesis does not require members with saving characteristics as much as before because credit unions no longer emphasize such characteristics.

Thirdly, credit unions still emphasize that they basically service only their members, even if the concept of "membership" has been widened a good deal. This keeps credit unions from becoming "capitalist", "purely commercial", profit organizations.
In short, credit unions are currently a kind of organization different from banks and other financial institutions as they are required to keep their original functions by following the co-operative principles.

2 On The Federal Credit Union Legislation

Desjardins attempted to gain federal legislation on credit unions so that the prospects for national credit union development might improve. But, at that time, whatever ways he tried to use, his efforts failed.

Placing credit unions under the federal government’s control involves the question of which Act should be used for regulating credit unions: the Bank Act, or a federal Credit Union Act? In the past, banks tried to place credit unions under the Bank Act. They raised the constitutional question from time to time. Credit unions disagreed and argued about the differences between banks and credit unions. Credit unions knew that if they had been placed under the control of the Bank Act, they would have been treated as banks, and lost their advantage in competing with banks and other financial institutions. In other words, they would have been pushed into the capitalist market cycle and lost their co-operative nature. This probably is the reason why credit unions were afraid of being controlled by the federal government.

Certainly, in the old days, credit unions could make
strong objections to being controlled by the federal Bank Act as they had little similarity to banks. However, the situation changes after the 1970s when credit unions became more similar in their activities to banks. Can credit unions still find strong reasons against being controlled by the federal Bank Act today? Perhaps there is one point they can make: theoretically they still operate on the bases of co-operative principles. Credit union legislation still requires that credit unions should do their business for co-operative reasons: for social and economic purposes. This argument may make it difficult for banks or other interest groups to force credit unions under the control of the federal Bank Act as credit unions have not completely given up their co-operative features. It may be true that recent tendencies indicate credit unions will move towards becoming real banks, — real capitalist financial institutions in future. However, credit unions can argue that presently they are not.

Are credit unions afraid of being placed under the control of the federal government by a credit union act? Why should they be? They tried to achieve this in Desjardins' time. Therefore, the question which should be asked is: do credit unions now still need federal legislation, like Desjardins wanted, to help the development of the credit union movement? Certainly, the matter of jurisdiction over
credit unions involves whether the provincial governments would agree to give their powers over credit unions to the federal government. This matter will continue the argument about constitutional interpretation. However, it is not easy to solve these constitutional problems. The relevant clauses in sections 91 and 92 could be interpreted in many ways in the interests of different groups.

Perhaps credit unions presently do not necessarily need federal credit union legislation. The reasons are as follows:

(1) Canadian credit unions have already had the **Co-operative Credit Society Limited Act** of Canada since 1953, which was to help the national development of the credit union movement.
(2) Credit unions, by their nature, have very strong local characteristics. To unify them nationally is not easy and not necessarily good for credit union development. Also, because of local features, any amendment to, or revision of, credit union legislation, which reflects the requirements of credit unions members, would be achieved more easily at the provincial level. The National Association of Canadian Credit Unions, in a report to the Royal Commission On Banking And Finance in 1962, made the same suggestion.15
(3) Credit unions in Canada, to a certain degree, are already controlled by the federal government as they have joined the Canadian Payments Association (CPA) to gain access to the
cheque clearing system. CPA is under the Canadian Payments Association Act, which was enacted by the Parliament in 1980 for the purpose of establishing and operating a national clearings and settlements system and planning the evolution of the national payments system. The federation of co-operative credit societies may become CPA members according to the Canadian Payments Association Act, and the local credit unions can clear their "cheques" through their federations. Trust companies and loan companies and some other centrals may apply for the membership in CPA, too, under the said Act. Although this Act accepts the provincial government's inspection power over the credit unions which may be its members, however, in the respect of using the clearing system credit unions are controlled by the federal government. In addition, there are some other federal legislation relating to credit union activities. In the purposes of defining what is a cheque under the Bills of Exchange Act, section 164.1 of the Act, introduced by Part V, section 92 of the Banks and Banking Law Revision Act, 1980, defines "bank" as including "credit unions". Consequently the cheques - like instruments issued by credit union are now defined, and treated as, cheques. The Small Loans Act fixes the rates of some credit union loans and the Income Tax Act, which changed the taxation status of credit unions, may influence credit union business operations and
their ability to compete with banks and other financial institutions. 22

In sum, it is still not easy to conclude that credit unions should be placed under the control of the federal Bank Act. Credit unions retain certain co-operative features making them different from banks, and credit union operations generally are still limited to local areas. Perhaps when the Bank Act is next revised credit unions could be put under its control if they keep moving towards becoming banks. On the other hand, it seems that credit unions presently do not desire to have federal credit union legislation to assist their national development. After all is considered, it is preferable that credit unions be under the supervision of provincial governments.
1. Namely, the Setting An Example Stage; the Spreading Stage; the Maturity Stage; the Extending Stage and the Changing Stage. See, Part VIII, Chapter 2 of this thesis.

2. For example, before the 1970s, credit unions feared to use the terms "bank", "banking" or "interest" because they did not want trouble coming from banks. See, "Use Of Bank, Banking Serious Matter", The Credit Union Way, Jan. 1965, at 8.

3. See, Christine Purden, Agents for Change: Credit Unions In Saskatchewan, Modern Press, Saskatoon, Saskatchewan, 1980, at 146. And, "Leave It To The Bankers", The Credit Union Way, Oct. 1959, at 4, 6. "Co-operative Chartered Bank Considered", The Credit Union Way, Jan. 1968, at 10-1. After 1984, credit unions no longer experience such difficulty because under the new Bank Act credit unions became a member of the Canadian Payment Association and enjoy the privilege of having their own clearing systems. On the matter of establishing a co-operative bank, also see, Part VI, VII, Chapter 2 of this thesis.


5. In the past, credit unions were called the "amateur bankers". See, the case of Alberta before 1961, which was mentioned in the letter from Co-operative Activities and Credit Union Branch, Government of The Province of Alberta to W. B. Francis dated Jan. 6, 1961. The letter can be found in the Saskatchewan Archives, No. 124 I. B. Credit Unions.


7. See, Part VI, Chapter 2 of this thesis.

8. This refers to the principles analysed in Part I, Chapter 1 of this thesis.

9. My analyses on the evolution of the Saskatchewan Credit Union Act during the 1950s, 1960s and 1970s show that the "No Renumeration" principle becomes the "Limited Renumeration"; less emphasis is placed on the "Limited Return On Capital" and the "Education of members" principles. Also see, Part V, VI and VII, Chapter 2 of this thesis.

11. See, Part II, Chapter 3 of this thesis.

12. In the beginning, Desjardins tried to pass a Bill called "Co-operative Syndicates Act". After it failed, the next year he planned to have introduced a new co-operative Bill for the incorporation only of people's or co-operative banks. He expressed the opinion that to have the Bill only for the incorporation of credit unions would disarm opposition and that subsequently another Bill could be introduced for co-operatives generally.


14. The lastest argument about credit union constitutional status was in 1978 when the Bank Act was in the process of being revised. See, "Credit Union Movement Defended", The Credit Union Way, April 12, 1978, Vol. 33, No. 7, at 13.

15. Supra, note 6, at 33.


17. Ibid., ss. 55, 57(2).

18. Ibid., s. 84(3) (4).


20. Ibid.


22. See, Part VI, Chapter 2 and Part I, Chapter 3 of this thesis.
A. Books and Published Papers


F. McGuinness, 10 To 10: Canadian Credit Unions...From 10 Cents To 10 Billion Dollars In 75 Years, Southam Murray, Toronto, Ontario, 1976.


R. Kenyon, To The Credit Of The People, the Ontario Credit Union League Limited, the Hunter Rose Company, Canada, 1976.

G. Mercure, Credit Unions And Caisses Populaires, working paper prepared for the Royal Commission on Banking and Finance, Nov. 1962.


R. F. Bergengren, Co-operative Banking, the Macmillan Company, New York, 1923.


C. Purden, Agents For Change: Credit Unions In Saskatchewan, Modern Press, Saskatoon, Saskatchewan, 1980.

The Comparative Digest Of Credit Union Acts, the Credit Union National Association, Hamilton, Ontario, 1962.


J. G. Craig, What Could Be...Credit Unions And Future, a paper presented at the Canadian Conference of Credit Union Executives, Harrison Hot Springs, B. C., Sep. 29 to Oct. 1, 1975.


B. Articles in magazines and pamphlets

[From The Credit Union Way]


"Ontario Prairie Credit Unions Moving Closer", April 8, 1981, at 19.


"Commercial Lending", Dec. 6, 1979, at 4.
"What Business Are They In", Nov. 1, 1979, at 4.
"New Credit Union Act Comes A Step Closer", April 1984, at 20-1.
"EITF Again Attacks Credit Unions, Co-operatives", Feb. 1965, at 3.


[From Other Sources]

Joan Crockatt, "Six Provincial Credit Unions Facing Financial Difficulties", the (Saskatoon) Star Phoenix (6 April, 1985) at B10.

"Credit Unions Want More Freedom To Act", the (Saskatoon) Star Phoenix (9 April, 1985).


C. The Materials From Saskatchewan Archives

The Department Memo To T. C. Douglas

July 30, 1951, No. 120 (3-33), 2 of 4 folders.
Nov. 26, 1952, No. 111 (3-11), 2 of 3 folders.
Nov. 28, 1949, No. 120 (3-33), 1 of 4 folders.
Feb. 9, 1950, No. 111 (3-11), 1 of 3 folders.
Jan. 6, 1953, No. 111 (3-11), 2 of 3 folders.
Jan. 12, 1950, No. 111 (3-11), 1 of 3 folders.
Oct. 30, 1951, No. 111 (3-11), 1 of 3 folders.
May 19, 1952, No. 111 (3-11), 2 of 3 folders.
July 15, 1952, No. 111 (3-11), 2 of 3 folders.
Nov. 4, 1952, No. 111 (3-11), 2 of 3 folders.
Dec. 11, 1952, No. 111 (3-11), 2 of 3 folders.
Nov. 23, 1956, No. 111 (3-11), 3 of 3 folders.
Aug. 28, 1956, No. 111 (3-11), 3 of 3 folders.
Sep. 20, 1956, No. 111 (3-11), 3 of 3 folders.
Feb. 20, 1952, No. 120 (3-33), 2 of 4 folders.
Feb. 8, 1955, No. 111 (3-11), 3 of 3 folders.


The Department's Letter To All Credit Unions of Saskatchewan, April 14, 1958, No. Al24, II. C. Credit Union (ii).

T. C. Douglas' Letter To Prof. F. R. Scott, Sep. 5, 1951, No. 111 (3-11), 1 of 3 folders.

The Department Memo Re Constitutional Problem Confronting Co-operative Credit Societies & Credit Unions, July 20, 1951, No. 120 (3-33), 2 of 4 folders.
D. Cases


Hodge v. The Queen, [1883] 9 App. Cas. 117.


Re St. Mary's Parish (Kitchener) Credit Union & Kitchener, 70 D. L. R. (2d) 676 (C. A.).


# APPENDIX I

## KEY INDICATORS OF CREDIT UNION GROWTH, SASKATCHEWAN, 1937-1978

<table>
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<th>Year</th>
<th>Total Number of Credit Unions</th>
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APPENDIX II

KEY INDICATORS OF CREDIT UNION GROWTH, SASKATCHEWAN, 1979-1986

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<th>Year</th>
<th>Total Number of Credit Unions</th>
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APPENDIX III

A CHRONOLOGY OF AMENDMENTS TO SASKATCHEWAN CREDIT UNION ACT, 1937-1985

The Credit Union Act, 1937, S.S. 1937, c. 25.

The 1939 Amendment, S.S. 1939, c. 30.
The 1941 Amendment, S.S. 1941, c. 21.
The 1944 Amendment, S.S. 1944, c. 29.
The 1945 Amendment, S.S. 1945, c. 35.
The 1946 Amendment, S.S. 1946, c. 27.
The 1947 Amendment, S.S. 1947, c. 42.

The Credit Union Act, 1948, S.S. 1948, c. 31.

The 1949 Amendment, S.S. 1949, c. 41.
The 1950 Amendment, S.S. 1950, c. 32.
The 1951 Amendment, S.S. 1951, c. 39.
The 1952 Amendment, S.S. 1952, c. 47.
The 1953 Amendment, S.S. 1953, c. 45.
The 1955 Amendment, S.S. 1955, c. 53.

The Credit Union Act, 1956, S.S. 1956, c. 44.

The 1957 Amendment, S.S. 1957, c. 65.
The 1958 Amendment, S.S. 1958, c. 2.
The 1959 Amendment, S.S. 1959, c. 2.
The 1960 Amendment, S.S. 1960, c. 4.


The 1966 Amendment, S.S. 1966, c. 29.
The 1968 Amendment, S.S. 1968, c. 15.

The 1974-75 Amendment, S.S. 1974-75, c. 7.
The 1983 Amendment, S.S. 1983, c. 16.

APPENDIX IV

A CHRONOLOGY OF EARLY LEGISLATION PERTAINING TO CREDIT UNIONS BY PROVINCE

1 Quebec (1906), in Chapter 33 of Statutes of Quebec 1906, called Co-operative Syndicates Act.

2 Ontario (1922), in Chapter 64 of Statutes of Ontario 1922, called The Co-operative Credit Society Act.

3 Nova Scotia (1932), in Chapter 11 of Statutes of Nova Scotia 1932, called Credit Union Society Act.

4 Prince Edward Island (1936), in Chapter 6 of Statutes of Prince Edward Island 1936, called The Credit Union Society Act.

5 New Brunswick (1936), in Chapter 53 of Statutes of New Brunswick 1936, called Credit Union Society Act.

6 Saskatchewan (1937), in Chapter 25 of Statutes of Saskatchewan 1937, called The Credit Union Act.

7 Manitoba (1937), in Chapter 7 of Statutes of Manitoba 1937, in Part VI of the Company Act, called Credit Union Societies.

8 British Columbia (1938), in Chapter 12 of Statutes of British Columbia 1938, called Credit Union Act.

9 Alberta (1938), in Chapter 22 of Statutes of Alberta 1938, called The Credit Union Act.

10 Newfoundland (1939), in Number 22 of Statutes of Newfoundland 1939, called Co-operative Societies Act.
APPENDIX V

A CHRONOLOGY OF SASKATCHEWAN CREDIT UNION EVENTS
1936-1985

1936 - Saskatchewan conference of Co-operative Trading Associations passed a resolution urging government action to promote credit unions.

1937 - Saskatchewan Legislature passed The Credit Union Act. Six credit unions organized with various bonds of association.

1938 - Credit Union Federation of Saskatchewan organized.

1939 - Saskatchewan Government appointed a full-time inspector of credit unions.

1941 - Saskatchewan Co-operative Credit Society Limited organized to facilitate movement of funds between credit unions and to provide credit to other co-operatives.

1942 - Credit Union Federation affiliated with Credit Union National Association of the United States, thereby gaining access to loan and savings insurance from CUNA mutual Insurance Society.

1944 - New Department of Co-operation and Co-operative Development formed by Saskatchewan Government.

1945 - Co-operative Life Insurance Company formed by credit unions and other co-operatives.

1947 - Credit Union Federation established a new control structure based on six districts. Saskatchewan Co-operative Credit Society Limited purchased the Co-op Block in Regina and opened a Saskatoon branch.

1948 - Credit Union Federation re-named the Credit Union League of Saskatchewan.

1950 - Urgent consideration given to protecting members' savings in credit unions after defalcations discovered at two rural credit unions.
1952 - Credit Union Mutual Aid Fund (CUMAF) created by an amendment to the Credit Union Act to provide a central reserve fund for protection of members' savings.

1953 - Co-operative Trust Company established by credit unions and other co-operatives.

1954 - Credit Union League control structure altered to include 12 districts.

1955 - Credit union chequing services given legal status by an amendment to the Credit Union Act.

1959 - Saskatchewan Co-operative Credit Society Limited became the central clearing agent for cheques passing between credit unions and banks.

1960 - Two largest credit unions, Sherwood and Saskatoon, installed automated equipment for electronic posting of transactions.

1961 - Central collections agency established by the League, the first such in Canada.

1962 - Fixed deposit account introduced by the Society.

1966 - Term deposit accounts introduced by credit unions.

1967 - Special savings accounts introduced by credit unions.

1968 - Cash dispensers, forerunners of automated teller machines, installed in some credit unions.

1969 - Initial steps taken by the League and the Society toward amalgamation to form a shingle central organization.

1970 - Formation of Credit Union Central finalized.

1972 - Electronic data processing services developed by Sherwood and Saskatoon credit unions taken over by the Central for use by other credit unions.

1973 - Saskatchewan Co-operative Financial Services established as a subsidiary of the Central to provide housing, farm and business financing in co-ordination with credit unions and the Co-operative Trust. Through the Central, credit unions became sales agents for Canada Savings Bonds.
1976 - Upgraded new on-line data processing system introduced.

1977 - First automated teller machines installed.

1978 - Daily interest savings account introduced by credit unions.

1980 - New Bank Act provides for credit unions to have direct access to cheque clearing services through their provincial centrals.

1983 - Credit Union Mutual Aid Broad (CUMAB) name changed to Credit Union Deposit Guarantee Corporation.

1985 - Flexible mortgage payments, corresponding to members' income intervals, introduced.