

LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
December 7, 1977

The Assembly met at 2:00 o'clock p.m.

On the Orders of the Day

POINT OF ORDER

REQUEST FOR DELAY IN QUESTION PERIOD

MR. E.C. MALONE (Leader of the Liberal Opposition): – I wonder if I could ask the indulgence of the House to agree to put off the oral question period until later this day until such time as the government can produce more Cabinet ministers so that we can have the proper opportunity to ask questions, Mr. Speaker. Less than half of the Cabinet is here and I ask the permission of the House to put over the oral question period until say 4 o'clock and then deal with it.

MR. SPEAKER: – The member may think that he has a valid point of order but I think it is not. Order! I think we are going to go ahead with the oral question period.

AN HON. MEMBER: – Are you not even going to ask them?

MR. SPEAKER: – Okay. I'll test the House to find out whether they wish to re-arrange the agenda at this time bringing the oral question period later in today. Is it the intention of the House to agree to that? Oral questions, the Member for Nipawin.

MR. R.L. COLLVER (Leader of the Conservative Party): – Mr. Speaker, I would address a question to the Minister of Finance in the absence of the Minister in charge of the Potash Corporation of Saskatchewan, in the absence of the deputy chairman of the Potash Corporation of Saskatchewan, in the absence of the Premier, Mr. Speaker.

MR. SPEAKER: – The member for Morse.

CIGOL Decision

MR. J. WIEBE (Morse): – Under Bill 47 little over \$00 million was collected by the Government of Saskatchewan. The majority of the oil companies involved or all the oil companies involved have now paid that taxation to the provincial government. Under Bill 47 which we now have before us, companies will again be reassessed for that same amount of money. The Premier indicated yesterday that CIGOL will be paid back and under Bill 47 will be reassessed again. For the companies remaining other than CIGOL will this amount to double taxation?

HON. J.R. MESSER (Minister of Mineral Resources): – Mr. Speaker, the answer is no. The member, I think, know full well that Bill 47 provides as a cost of operation by the oil companies, all taxes, royalties and other dues payable to the government as a cost of operation and would be deducted in relation to any profits that taxes would be assessed against, so that where CIGOL may have been paid back some moneys. The fact that they did not pay the royalties or the income tax which would apply under Bill 47 would then mean in the application of Bill 47, they would be paying a similar amount, not the same amount necessarily but a similar amount in taxation only

because of the situation in relation to their circumstances which is not necessarily the circumstances with all other oil companies, that there is no other taxation.

MR. WIEBE: – Mr. Speaker, if I read then – a supplementary question – if I read then from the minister, that it is your intention to have these taxes balance each other off, then why is it then necessary for the industry to go ahead with a very complicated and, in many cases, an impossible task of having to calculate that tax under Bill 47?

MR. MESSEY: – Well, Mr. Speaker, I think the member is somewhat hypothetical in assuming it is an impossible task. Certainly my officials within the Department of Mineral Resources do not believe that to be the case and we believe that the regulations will be drafted in such a way that they will not bring about undue difficulty, either for the department in enforcing them, or for the companies who will have to adhere and abide by them.

MR. E.F.A. MERCHANT (Regina Wascana): – Supplementary, Mr. Speaker. The question is supplementary to the hon. minister and with respect, Mr. Speaker. I think you've got the nub of the question backwards. The question is, is the minister aware that under taxing law, if you don't pay under protest you very likely cannot recover in a court of law. Therefore, companies that did not protest when they paid their taxes may not be able to recover the taxes paid under Bill 42, but face a new tax under Bill 47. My question is, would not the operation of the act be that they face a double jeopardy and it may very well be that some hundreds of millions of dollars were not paid under protest, that's information which the government has and those companies would be in double jeopardy?

MR. MESSEY: – Well, Mr. Speaker, let me say that a significant sum of money has been collected under what we have termed a composite royalty under The Mineral Resources Act. That is not under protest. Bill 42 had nothing to do with the collection of that tax. The Supreme Court decision had nothing to do with the collection of that tax. We have, and the member for Wascana knows now a bill before us, Bill 47 which is an oil well income tax bill, a tax that is assessed on the profits that the companies will generate from oil production in the province of Saskatchewan. The costs of operation for their interest in Saskatchewan include all fees, taxes and royalties owing and/or paid to the government, so that that would be interpreted as a cost that is deductible from their total costs of operation to arrive at a net profit. That is unlike the federal government in relation to the taxing system that they follow in relation to royalties paid to the provincial government. So that where a company has paid royalties to the province of Saskatchewan, be it under the composite royalty system within The Mineral Resources Act, it would be deducted in the application of Bill 47 so that there would be no double taxation. Getting to the earlier question it would be safe to assume that as moneys were paid back to CIGOL they would not in that instance during the period of time that Bill 42 was in place, they would not have paid, in effect, royalties and fees or taxes due to the provincial government, so that the new bill would undertake to in that instance assess a tax on a higher level of net profit than it would for the companies who paid under the system that was in place with Bill 42 and with the composite royalty system.

MR. SPEAKER: – The member for Nipawin.

PCS Financial Statement

MR. R.L. COLLVER (Leader of the Conservative Party): – Mr. Speaker, I address a question to the Minister of Finance. The Potash Corporation withdrew \$229 million from the Energy Fund which the

Minister of Finance in an earlier session of the Assembly said was earning at least 8 per cent or some \$18 million a year. Why would the Potash Corporation of Saskatchewan then issue a financial statement showing a so-called profit when any prudent presentation would demand the indication of a substantial loss?

HON. W.E. SMISHEK (Minister of Finance): – Mr. Speaker, as the hon. member knows the Potash Corporation has only been in business for a short period of time. The Cory mine has been only a year in operation, one – eight months, yes – two months. Mr. Speaker, this is a long-term investment that we are making. We believe it is an investment that's in the interest of the people of Saskatchewan. In future and subsequent statements the hon. member will find that from the three mines there will be a different set of figures, production certainly will be larger, the sales will indeed be larger and we expect the profits to be equally larger accruing to the people of Saskatchewan.

MR. COLLVER: – I gather then the minister is agreeing that a substantial loss should have been shown. Why then didn't PCS either pay the going rate for the loan from the Energy Fund, in which case it would have shown the \$17 million loss, or at the very least, indicate that the corporation really earned in that year less than one half of 1 per cent on investment in which case it will take PCS 200 years to pay for the mines without any return to the people of Saskatchewan? Was it in order to get a headline, like the one in the Star-Phoenix, where amateurs looked at the statement and misinterpreted it?

MR. SPEAKER: – Order, order. I'll take the next question. The member for Lakeview.

MR. MALONE: – Mr. Speaker, a question to the Minister of Finance in connection with the statement filed by the Potash Corporation of Saskatchewan. I assume the minister is familiar with the annual report. The report indicates quite clearly that on the sales operation the corporation lost a sum of \$1,300,000. There is, however, one item in the report, interest and other, which would indicate that the corporation earned about \$2 million. Can the minister tell me whether or not this particular item of \$2 million was earned simply as a result of the potash corporation taking the money that was advanced to it by your department and investing it until such time as it was required to be used to buy other potash mines?

MR. SMISHEK: – Mr. Speaker, I do not have in front of me a copy of the corporation report and as the hon. member is aware, the corporation will be appearing before the Crown Corporations Committee and I would suggest that those question be directed by the member when the Crown Corporation Committee meets.

MR. COLLVER: – Supplementary. Can we expect a continuation in the coming years of this misleading and unethical reporting by PCS and certified by Mr. Higgins or will PCS acquire an auditor who demands that financial statements reasonably reflect the truth before their certificate is affixed?

MR. SMISHEK: – Mr. Speaker, the hon. member is casting a reflection on one of the outstanding chartered firms. They are not trying to mislead. They have presented the report and it's an audited report. Mr. Speaker, again I say that the member will have an opportunity to pose questions in the Crown Corporations Committee about all the detailed operations as he fully well knows. The statement is for the period ending June 30; it's only an eight month operation. Some of the mines were not even included in

that financial report and the hon. member is aware he is trying to misinterpret. I do not agree that there is any less or . . .

MR. C.P. MacDONALD (Indian Head-Wolseley): – Mr. Speaker, I move this House do now adjourn.

Motion for adjournment of the House negatived on the following recorded division:

YEAS – 20

Malone	Stodalka	Birkbeck
Wiebe	McMillan	Ham
Merchant	Nelson (As-Gr)	Berntson
MacDonald	Clifford	Katzman
Penner	Collver	Wipf
Cameron	Larter	Lane (Sa-Su)
Anderson	Lane (Qu-Ap)	

NAYS – 24

Pepper	Matsalla	Rolfes
Thibault	Robbins	Shillington
Smishek	Mostoway	Skoberg
Messer	Banda	Allen
Snyder	Whelan	Koskie
Baker	Dyck	Johnson
Lange	McNeill	Thompson
Kowalchuk	MacAuley	Lusney

MINISTERIAL STATEMENTS

Funds to India Cyclone Victims

MR. MERCHANT: – On a point of order.

MR. SPEAKER: – Order, order. The member may raise a point of order during the proper period of time.

HON. W.A. ROBBINS (Minister of Co-ops): – Mr. Speaker, I would like to inform the members of the Legislative Assembly that the Saskatchewan government has approved a cash contribution of \$25,000 to victims of the India cyclones. The contribution will be channeled through the Canadian Red Cross Society. The cyclones which occurred on November 12 and November 19 last, hit the densely populated area along the southeast cost of India near the Krishna River Delta. There are some 12,000 persons killed in the disaster with over a million homeless. The result and damage has been estimated at \$625 million in what has been described as the worst disaster that's ever

occurred in India in this century.

Contributions pledged to date, Mr. Speaker, are as follows: Canadian government, \$200,00; Ontario government, \$75,000; British government, 250,000 pounds – about \$500,000 in current rate of exchange; Canadian Red Cross Society, \$20,000. All of these contributions are to be channeled through various Red Cross Societies. The Canadian Red Cross Society has also launched a nationwide appeal to raise \$500,000 for emergency relief assistance. contributions which are tax deductible may be sent to the nearest Red Cross branch or the Canadian Red Cross Society. The government urges the people of Saskatchewan to contribute as generously as they did for the victims of the Guatemala earthquake when over \$20,000 was raised privately, together with a Government of Saskatchewan contribution of \$25,000.

HON. MEMBERS: – Hear, hear!

MR. G.H. PENNER (Saskatoon Eastview): – Mr. Speaker, if I may just respond on behalf of our caucus to the announcement that the minister has made. It is certainly our view that a contribution to the Indian Relief Fund is very worthwhile. I suppose that my only initial reaction is that it is unfortunate that it cannot be more in the sense that a very large number of people who are underprivileged have suffered a very severe hardship. Those of us who live in a part of the world where that kind of hardship is not something that we need to face are very fortunate indeed and we are pleased to support what the minister has said.

MR. J.G. LANE (Qu'Appelle): – Mr. Speaker, on behalf of the Conservative caucus we join with the government, commending the government for the gesture made. We hope that the funds will assist the Red Cross in speedily giving aid to the people who are in dire need because of the tragedy. We hope and wish the Red Cross speedy work, so to speak, in its great endeavors in trying to bring assistance to the people in need.

Point of Order on the Question Period

MR. COLLVER: – Mr. Speaker, I know that there are other points of order going to be raised and certainly ones with which I concur, but I wish to raise a point of order which I feel is extremely serious in this particular session today. Today you recognized the member for Lakeview (Mr. Malone) on a point of order. Rule No. 35(3) says:

Mr. Speaker shall not entertain points of order during the oral question period. Points of order may be raised later on orders of the day.

Mr. Speaker, today you called oral question period. I rose to my feet to ask a question and you recognized a point of order. I would suggest to you, Sir, that this is the second time this has occurred. I do not believe it is within the rules and I am raising . . .

MR. SPEAKER: – Order. The member is only permitted to raise one point of order at a time. He said this is the second time this has occurred. I don't acknowledge that it has occurred before. If it did the member should have raised it at that time. I deemed the reason for the member for Lakeview being on his feet was with regard to a point of order which I deem to take precedence over the fact that the question period was about to begin, that's why I did it. Order, order. The member for Lakeview was on his feet at the same time you were. Indian Head-Wolseley.

MR. C.P. MacDonald (Indian Head-Wolseley): – Mr. Speaker, I rise on a point of order about what has occurred in the House today, Mr. Speaker, and I do so with a great deal of genuine concern. Government accountability is related to the Cabinet ministers coming to this Assembly to answer questions, oral questions, put by opposition members. Today, there were seven out of 19 Cabinet ministers, Mr. Speaker. I believe that the government is in contempt of the Legislature and attempting to ignore their sense of responsibility to this Assembly and to the people of Saskatchewan, only having seven members here.

MR. SPEAKER: – Order, order. The member makes it difficult for me to recognize him at some other time when he rises on a point of order, when in fact this time, he delivers a speech without making a point of order. Now there has been no rule abridged. As far as I'm concerned, one member over there is just as important as one member over here. They should all be here. If they can't be here, that's not my problem. I don't think that's a legitimate point of order.

MR. MESSEY: – Mr. Speaker, I recognize the ruling that you have just made in regard to the last member speaking, being out of order. I am wondering whether you would allow the government to make a statement in regard to the subject matter, a very serious subject matter that he has raised in regard to the absenteeism of Cabinet ministers in the Legislative Assembly. I note that he finished his remarks prior to being ruled out of order and I ask for your ruling in that regard.

MR. SPEAKER: – All I can say to the hon. member is that I will watch the member for Indian Head-Wolseley more closely when he's raising points of order, to find out earlier if they're legitimate and I will state at this time that I didn't feel that his point of order was a legitimate point of order.

MR. R.L. COLLVER: – Mr. Speaker, I rise on a matter of personal privilege. I believe that your previous statement that you deemed a point of order to be in order against the rules is jeopardizing my personal privilege as a member of the Legislature and I ask, Mr. Speaker, that you look into this situation and that you rule on this situation as to whether or not, Mr. Speaker can deem a point of order, in order, when the rules of the Legislature as passed by this Legislature specifically say that you may not.

MR. SPEAKER: – Order, order. Perhaps we can get all members into order for a minute or two. Perhaps the member for Nipawin misunderstood the point that I was making with regard to his point of order. The first and foremost point I wished to make in ruling on his point of order originally was that the member for Lakeview was on his feet at the same time as the member for Nipawin and he was saying point of order. Now, I assumed, that the point of order had to do with something that just had happened, so I took the point of order prior to the question period. I recognized the member for Nipawin as the first questioner, thereafter. I think I have given my statement as much as I intend to at this point.

ADJOURNED DEBATES

SECOND READINGS

The Assembly resumed the adjourned debate on the proposed motion by the Hon. R. Romanow (Attorney General) that Bill No. 47 – **An Act to provide for the Taxation of Income from Oil Wells** be now read a second time.

MR. E.F.A. MERCHANT (Regina Wascana): – Mr. Speaker, the Attorney General has painted this legislation in purely monetary terms and that reality was his message to us yesterday embellished as it was with a great deal of political rhetoric. He says to us as members of the opposition, are you going to vote for the return of a half billion dollars of taxpayer's money or are you not. In large part he has either missed the point or he is determined to misrepresent the point.

The CIGOL controversy, Mr. Speaker, goes far beyond a monetary issue. The first issue relates to the way the government has reacted to the decision. As far as CIGOL itself is concerned that issue is decided. The highest court in the land has said that the money must be returned. Either we are going to be governed by a rule of law or we are not and the well calculated affront to the Supreme Court of Canada is an attempt by the NDP to place themselves and their doctrines above the power of the Supreme Court of Canada.

The comparison between judges that have been uttered by the Attorney General and by other members and the remarks of the Premier about the Supreme Court and the process of appointment amount to an affront to that court, a well calculated affront. It is all designed to hold the Supreme Court up for ridicule.

I spoke the other day, Mr. Speaker, about the . . .

MR. SPEAKER: – I just want to say a word or two about this particular matter of an affront to the Supreme Court. The member is stating that some members' remarks in the Chamber were an affront to the Supreme Court and examination of what went on in this Chamber was an affront to the Supreme Court. That by implication means that I did not recognize that that occurred and it is a reflection on the Chair. It is also a reflection on the members of this House that they didn't bring it to the attention of the Chair at the time that it occurred and it would have been dealt with at that time.

Now I think that it would be wise of the member to avoid suggesting that the Chair has not recognized an affront to the Supreme Court that has occurred in this Chamber in his view, because it means a reflection on the Chair. It means a reflection on the other members of this House and if the member can reconstruct his thoughts to purge that thought from him, I would be pleased and I think the members of the House would recognize that that's necessary.

MR. MERCHANT: – Mr. Speaker, speaking to that point of order and I've dealt with those comments in any event and I wasn't going to pursue it. But I don't view and I suggest to you that you rethink your position in that regard. I don't believe and I have noticed in the past year a tendency, Mr. Speaker, to feel that you have to widen your jurisdiction, if I can put it in those terms. Your job is not to sit here and have to decide on issues as issues come before them. For instance, if the word 'lie' is used, I suggest to Mr. Speaker that your job is not to immediately rise. Your job is to act as an umpire or a judiciary of problems that are raised before you. I believe that the remarks of the member for Cutknife-Lloydminster (Mr. Kwasnica) and the member for Biggar (Mr. Cowley) particularly, as well as some of the remarks by the Premier, both in and out of the Chamber, were as I described them. I suggest to you that unless it is brought to your attention in those terms, that it is not up to you to rise at any time . . .

MR. SPEAKER: – Order! The member is not speaking to the issue that is before the House, namely Bill 47. I will say to the member now that the matter of the remarks of the member for Cutknife were brought to my attention, I'll deal with them when it is appropriate to deal with them. Until such time as that occurs, then there is no further

discussion of the matter. I might say that I do not and will not accept any further interpretation of what my responsibility is in the Chair. I think it is quite clear that my responsibility is not to sit passively until the offence has occurred a number of times but if, in fact, I feel an offence is occurring to step in without assistance from any members whatsoever. I would ask the member to go on with Bill 47.

MR. McMILLAN: – Mr. Speaker, speaking to your point of order, I am under the impression that the matter was raised by the member for Regina South within an appropriate period of time after the offence was supposedly committed by the member for Lloydminster. You have stated in this House that you will respond to his question, I believe it was privilege at that time, with respect to casting aspersions on the Supreme Court. Firstly I would like to know if you can inform us what an appropriate period of time is and secondly, an appropriate period of time to respond to his request for a ruling on that and why you will rise to your feet to interrupt the member for Wascana who is only referring to remarks made by other members in this House when in fact you wouldn't respond to the member for Cutknife-Lloydminster.

MR. SPEAKER: – The member makes two points of order at once, rather than one. Now if the member had been listening carefully I have just said to the member for Wascana that I acknowledged that the member for Regina South raised a point of order and I said I would deal with it at an appropriate time. Now if the member for Kindersley doesn't understand what an appropriate time is I am afraid I can't help him.

MR. McMILLAN: – I asked what it was . . .

MR. SPEAKER: – Well I think it's quite clear, the member for Cutknife is not here. That's perfectly obvious. I said that yesterday to the member for Regina South, when he raised the point. I am surprised that at that time it didn't impress the member for Kindersley, that there was some reason why I hadn't brought the ruling forward.

MR. McMILLAN: – I was waiting for your explanation, Mr. Speaker, certainly.

MR. SPEAKER: – I don't have to explain to the House. I bring it forward when it's appropriate to bring it forward and not before. I don't bring rulings forward at an inappropriate time. I think that's quite clear. The member for Wascana.

MR. MERCHANT: – Mr. Speaker . . .

MR. KOSKIE: – Throw that page away.

MR. MERCHANT: – No, as a matter of fact, I'd gotten through that area. I'm just trying to pick it up.

I spoke the other day, Mr. Speaker, about the problems that the Social Credit government faced when they were trying to create the Treasury Branches and trying to float Alberta script in that province. Once part of that legislation was struck down the government found itself in a sort of slippery shoot. All of the legislation that followed the first legislation slipped down into the mire. Members might be interested to know that in the process of that legislation being struck down, two Social credit members of the Legislature arrogantly struck back at the Supreme Court; they had quite a few comments to make about the Supreme Court in its formation. Those two Social credit members were prosecuted at that time, I suggest, for not saying a great deal about the Supreme Court. One of them was incarcerated for saying about the Supreme Court

perhaps with respect, less than some members in this House have said on the Speech from the Throne.

I do suggest, Mr. Speaker, that one of the issues that has been dragged into the debate has been the whole question of the rule of law and the question of the respect for the law, not so much, Mr. Speaker, in the area that you have prescribed as one which I should not discuss at this time but also in the fact that this government made it very clear that it was not prepared to comply with the judgment and that it would do all that it could to avoid compliance with the judgment. It has, in fact, led Saskatchewan people and Canada to hold our legal system in disrespect.

MR. KOSKIE: – Why do you say that . . . ?

MR. MERCHANT: – I say that about the Premier's statement in the press. I say that about the Premier's statement in response in this House. I say that about the Premier's statement when he talks in reference to a judgment to the formation of the court when he implies that the court is a political court and that's certainly what he's implied.

Mr. Speaker, the second area that the hon. Attorney General has chosen to ignore is the question of the competence of the government. Other jurisdictions handle resource policy effectively. This jurisdiction seems incapable of effectively dealing with questions surrounding resource taxation. And that is all a part of how we will respond to Bill 47.

The Attorney General seems prepared to take any foolhardy risk in the resource taxation area and he has placed the province very much at risk first with the potash legislation which in part has been struck down and very much at risk with the original Bill 42.

Now he comes before us with a new act for which he asks support and suggests that we should rely on his ability. He said that this legislation was prepared to deal with the decision of the Supreme Court. But only a day or so ago he said that the legislation wasn't prepared quickly, and I ask which was it? Did the government anticipate, as did everybody else in legal circles in Saskatchewan, that the decision was going to come down as it did, or do they present in Bill 47 a slapstick act that they threw together within a week. It's one or the other.

If they did anticipate the decision, which the act would seem to imply, then the Attorney General isn't being completely candid with the House when he says that they were surprised at the decision of the court and when he says that the law was good when they drafted it. Of course, Mr. Speaker, you have to examine even more closely his comments that he thought the law was good when he drafted it. It is a part of the piece of the tremendous risk that this Attorney General is prepared to take with Saskatchewan taxpayers' money.

It is interesting to note that neither the Attorney General nor the Premier ever stated in the Bill 47 debate that they thought Bill 42 was constitutional. It is interesting to note that the Attorney General did not state that he was sure that even this legislation would be upheld by the courts. The lack of confidence in Bill 42 and in Bill 47 which the government has shown demonstrates that they are prepared to gamble Saskatchewan tax dollars before the courts. With Bill 47, as with Bill 42, as with the potash legislation, the government almost dares the industry to take them on.

The Attorney General with this act asks for

our support and he almost asks for congratulations. He is the man who got the province into this mess. Now he comes up with what he says is the solution and ask us to congratulate him for a feeble attempt at pulling us out of the swamp. He asks us to support this bill, no matter how bad it is, not matter how bad it is in its attempt to bail the NDP out of their political problem. The pathetic thing of course as member will know is that the NDP have put the province in the soup with them. But we have to ask why should we trust you, such incompetents?

Given that lack of confidence we come to the third area that the government tries to sweep under the rug, our very valid question of whether this legislation is constitutional. We don't want those bumbler, Mr. Speaker, to double the stakes with another unconstitutional bill. We don't want a \$500 million mistake to turn into a billion dollar mistake in the next two or three years.

The failure to refer Bill 42 for a constitutional question must not be repeated with Bill 47. The Attorney General says they're not prepared to make a court reference. I leave it to the people of Saskatchewan to decide why he refuses. I suggest he refuses because he know that the legislation is highly suspect. He really asks members of the House to support this legislation to bail out the NDP, not because he knows in any confident way that the legislation will be upheld but because he feels that this legislation can solve the short term political problem that his party faces.

Pathetically, as I have said, he has dragged the Saskatchewan taxpayer into the mire with him. We have to examine very carefully whether we as a responsible opposition are prepared to give our support to that legislation. We have to ask first whether the legislation is constitutional. I think it is not constitutional.

The government refuses us a guarantee that they will refuse the legislation and they refuse us access to their constitutional advice. They won't even tell us where they are getting their constitutional advice. We have to hope that they are getting their constitutional advice from better minds than the people who dragged us into this mess in the first place, but they won't tell us.

Our question has to be whether the legislation is constitutional. Will it fail?

The Social Credit legislation from Alberta, that latter legislation that tried to patch the first mess, failed because the Supreme Court could see that each new act was designed to patch up the mistakes of the previous legislation. In legal terms the question of whether the legislation is being patched up becomes whether the legislation is colorable. Is this legislation similar to the act that has been struck down? Is it designed to avoid the CIGOL decision? It is not an easy question. The court will make a number of inquiries in deciding whether to strike down Bill 47 because it is colorable in that way.

AN HON. MEMBER: – They can't go outside this act.

MR. MERCHANT: – They certainly can go outside the act. They did in potash and they will again. I guess, Mr. Speaker, that one of the problems of leading a good life or a rural practice as a lawyer is that you don't become too familiar with these heady matters about potash and constitutional matters. It's just one of the problems I guess, Mr. Speaker.

One of the things, and I say to the hon. member because he may want to take notes in

case he is ever called back for a refresher, one of the things that they will do is look at the words uttered in this Legislature. They'll look at the remarks of the Premier and the Attorney General. He may well, that court of first instance, may well look at the press release given by the Attorney General on December 2. The Attorney General there says and I quote, "The bill has been drafted to meet the objections to Bill 42 raised on the judgment of the Supreme Court of Canada in the CIGOL decision." That's apt to become evidence in the case that brings Bill 42 down if it's challenged. The remarks, Mr. Speaker, of the Premier last night on television may well become evidence where he says that virtually all of the money will be recaptured. Statements like that, statements like those of the Attorney General in the House on Monday may well become evidence. The Attorney General may find himself hoisted on his own petard.

Now, Mr. Speaker, the NDP, of course, has difficulty getting lawyers to enter its ranks and one of its members is saying 'ahhhh'. Well, Mr. Justice Disbrey, in the potash case, allowed into evidence Hansard reports from the Legislature and by announcing its purpose in attempting to sidestep the Supreme Court decision, this government may be dragging Saskatchewan people back into the blue with Bill 47.

Now one of the question in deciding whether this new legislation is colorable, one of the other questions besides the remarks made in the House will probably be whether the government is trying to get the same tax. That will be the second question, Mr. Speaker, when and if Bill 47 is challenged. Is the government trying to get exactly the same tax dollars? Now as I said, they'll probably look at the Hansard reports. but there are other things a court would look at as well. The Premier said the new legislation will recapture all of the money set free by Bill 42. As a lawyer I say to you that was a pretty stupid comment, a pretty stupid comment for a lawyer to make because that's the kind of thing that will be quoted back to the government if a challenge is launched.

Another area a court would view, and Cabinet may well have explained this in caucus, is whether the government is trying to get the same quantum of tax that was quoted in Bill 42, the same amount of money that Bill 42 captured. Now in that regard, the government really has painted itself into a corner, a political corner, Mr. Speaker. If they don't get back the same quantum of tax, they are in political trouble. If they do get back the same quantum of tax, Bill 47 may go down as colorable because of the comments of the government, because of the comments of the Premier and the Attorney General and because the very same tax dollars were recaptured. Then you'll have the Supreme Court of Canada saying the same tax dollars were recaptured, the Premier said he was going to recapture the same tax dollars, the Attorney General said in the debate that the same tax dollars would be recaptured; the Premier and the Attorney General said in answer to questions, they were going after the same tax dollars and low and behold they were recaptured. But if you back away from that, you've got a great political problem. That's called tracking of the money, Mr. Speaker. If the government tracks this money too closely, it will drag this legislation down and if the government doesn't track the money closely, it's in political trouble and I say, Mr. Speaker, that knowing this government, it will put its political neck ahead of the welfare of Saskatchewan and Regina.

Now there are other questions that the Supreme Court will ask. Is this legislation trying to impose the same tax as the tax struck down? Most of the signs are that you are trying to impose the same tax. The time period is the same as the time period imposed in Bill 42. That's one of the signs that the court will look at. Bill 47 picks up at exactly the same point as Bill 42 did, the time period is identical. The exemption of 1,280 acres is exactly the same. Those are all signs, Mr. Speaker, that a court will look at, I'm afraid, if they

decide to deal with Bill 47.

Now there is a second area of likely attack, likely attack if this matter reaches the court, that is whether this is an income tax or not. The Attorney General said and I quote, "In my view this is in accordance with the traditional income tax concept." I am not sure, Mr. Speaker, these days why anybody would be interested in the view of a lawyer with such an atrocious record in taxing resources. But if he really believes that this is a traditional income tax it either shows that he never pays income tax himself or has no idea of what a traditional income tax really is.

Now Mr. Justice Spence, who decided in favor of the government, took some pains to help the government by telling them what an income tax is. And he said that the court will look at what deductions are made, the whole second area where this legislation will probably fail. The Attorney General simply can't tell us that the legislation is good, that's not going to save the legislation. Income tax is a world defined concept. The phrase income tax in Bill 47, I'm afraid, means something quite different.

Section 7 of the act allows for arbitrary decisions to be made about what the deductions will be. Section 7(f) goes so far as to say that the government can decide against any deduction which is not reasonable. That is not the standard way that we define income tax. Income tax is a thing known in law. This act, for instance, excludes federal tax, it excludes any overhead or administrative expenses; it excludes any exploration or preproduction expenses, any depletion allowance. All of those things are commonly and ordinarily understood to be deductible for the purposes of income tax. You can't take a thorn and dress it up a little in a ribbon and say, there it is, it is something different; it's a rose. And that's the problem that this legislation will face when it's challenged on that income tax question. This is not an income tax by the ordinary definitions of income tax. As I've said, that will be a crucial test of whether this is an income tax or not. And the arbitrary deductions imposed by the taxing authority are things that are usually taken by a court to indicate that it's not an income tax at all. The arbitrary deductions, so necessary in a political way, so necessary, so that this government can deal one company to the next. Those arbitrary deductions necessary not for the government, but for good politics, may well bring this act down.

Two legal areas which concern us, the two areas which lead me to believe that this legislation is unconstitutional are both problems created not for good government, not to save the tax dollars, are both things done to save the political mess of the NDP government.

Now we need, Mr. Speaker, a better assurance than that of the Attorney General, that this legislation is valid.

Well, you know, it's so simple for a man to sit there and say vote against it. You don't care whether it's constitutional, that's obvious. You couldn't care less. Obviously the minister sits in his place, in his nice dulcet tone says, vote against it. The minister clearly doesn't care whether four or five or two years down the pike, Saskatchewan people face not just this problem but a far worse problem again. I say to the hon. member that we on this side, we are about that, a little more far sighted than you are perhaps. No one should underestimate the legal mine field that you face in this legislation. The act is shaky and you are being led in this area by a man whose record in resource taxation is lousy.

Now, Mr. Speaker, I said that they are seeking to track the money too closely. I'll just explain what that means. The government appears to be trying to recover exactly the

same tax dollars, for all the good political reasons that members opposite have enunciated, but those good political reasons may bring down the act.

Now, Mr. Speaker, one area to which we are addressed by the Attorney General is the moral issue. The Attorney General steals that concept from the member from Regina South and then he seeks to pervert it, take the words and fails to understand them.

We too believe that the tax dollars from the oil industry belong to the people of Saskatchewan. What could be more obvious? But we would not have taxed to such an extent as to drive the industry from the province, we say that. The Liberal fair tax. We would not have crippled the oil industry to the point where you now have less than half of the exploration that we had under the Liberal year. Less than a quarter of the exploration last year, 258 wells, the best Liberal year was 1,256. The average Liberal year was better than 1000. Then after that disastrous year you took the thumb screws off and now you have doubled the quarter and you are up to a half of our average. Well, Mr. Speaker, they so overtaxed that we lost all of the advantages of exploration in Saskatchewan. Having done that we too were reluctant to give back the tax dollars. We received nothing for the tax dollars. We lost the exploration. Now we are going to lose the taxes as well. The government is visiting upon us the worst of both worlds.

This mess, Mr. Speaker, is a result of Bill 42, the greed of Bill 42. Then last year the government backed away from Bill 42.

We don't know whether Bill 47 will be challenged or not. But I believe it may very well not. I believe that it may not because the government will make a sweetheart deal with the industry in order to avoid having Bill 47 challenged.

What other purpose, Mr. Speaker, could there be in having Section 39 which provides that this government may negotiate from one company to the next? The government says we must compromise a little.

AN HON. MEMBER: – The Liberal Party put that in.

MR. MERCHANT: – I can just imagine a Liberal Premier getting up and saying, “We must compromise a little”, and every single one, and they would be over here, and there would be a dozen, every single one saying what does a little mean? We ask the same question. We want to know on the merits what you intend to do?

See, Mr. Speaker, this legislation for what it really is, it doesn't just give the taxing power to the Cabinet but it allows for separate deals between companies. A deal for Imperial Oil, a different deal for Shell, a different deal for CIGOL, and they will get a real sweetheart deal because they are in the best legal position to challenge Bill 47. Imperial will get a pretty good deal because they are in a hot position to challenge Bill 47. It gives the Cabinet the power to set rates in private; it gives to a Cabinet minister the right to make one deal with one company and another deal with another company. It invites bribes, it invites bribes of a personal nature.

SOME HON. MEMBERS: – Hear, hear!

MR. MERCHANT: – And it invites bribes of a political nature. What are we faced with? What really do we face? An invitation in this legislation – I am satisfied it is bad legislation – it is probably

unconstitutional. So knowing that it is probably unconstitutional and the lawyers likely get the same advice or the oil companies probably get the same advice from the self-same lawyers that I get advice from, I am sure they do, you have an invitation to the oil companies to look for the sweetheart deal. What else can they expect? So you say to us, pass this unconstitutional act which will bail us out in a political way, but trust us that it won't be challenged because we will make a sweetheart deal on the other side of the coin. Well that is not very good legislation to bring before this House and gives us a little pause as the last bulwark on behalf of the Saskatchewan taxpayer.

No government should be passing legislation, Mr. Speaker, even if it weren't for the likely sweetheart deal with the government; no Cabinet should pass legislation which invites bribes of one sort or another ending up in government hands, in the hands of a Cabinet minister.

SOME HON. MEMBERS: – Hear, hear!

MR. MERCHANT: – Let's just take Imperial Oil. You think about it, you think about Imperial Oil. This legislation allows separate deals. Imperial Oil owes \$40 million; they paid it. They paid \$20 million under Bill 42; they are entitled to their \$40 million back. So now they come into the negotiations with somebody. I don't know whether it will be a minister. I don't know whether it will be the top negotiator, and the question is, how much of the \$40 million will you be taxing back under Bill 47? We know it isn't going to be \$40 million because the government says we are going to give up a little. So is it going to be \$39 million or \$30 million? Bear in mind that can be a separate deal for Imperial Oil, different from the deal with CIGOL, different from the deal with Shell. Thirty-two million dollars looks pretty reasonable; \$39 million looks pretty reasonable. I say to you that a \$2 million bribe to a Cabinet minister is not out of the question when \$9 million is on the line.

SOME HON. MEMBERS: – Hear, hear!

MR. MERCHANT: – I say that a million dollar bribe to some public servant is not out of the question when \$9 million is on the line.

SOME HON. MEMBERS: – Hear, hear!

MR. MERCHANT: – That is the legislation you are going to pass.

MR. ROMANOW: – You won't be a party to a bribe will you, Tony?

MR. MERCHANT: – Well, I sure don't want to pass legislation that asks for a bribe.

MR. ROMANOW: – We will see if you are going to be a party to a bribe, Tony, You will show what your principles and the Liberal principles are, if you will be a party to a bribe.

MR. MERCHANT: – We may very well, Mr. Attorney General, we may very well. You pass legislation, you bring down legislation that encourages bribes, bribes in three ways: bribes to individuals, bribes to your party, and most important bribes in terms of not challenging that legislation and we may very well vote against this act.

SOME HON. MEMBERS: – Hear, hear!

MR. MERCHANT: – No government, Mr. Speaker, should pass this kind of legislation

and no self-respecting government would bring it before a House.

SOME HON. MEMBERS: – Hear, hear!

MR. MERCHANT: – Now how do we say you solve that problem? I say to you, Mr. Speaker, no self-respecting government would bring in that kind of a provision. No self-respecting government would take the power to tax, not just from this Legislature, not just take the power to tax from this Legislature, but then allow separate deals. We say if you are going to pass this kind of an act the least you could do is put that power to make those separate deals with different companies into the hands of the Oil and Gas Conservation Board. Now what effect would that have?

MR. ROMANOW: – My problem is not you guys!

MR. MERCHANT: – All right, you might learn something. Just listen, you might pick up some pointers on constitutional law (Several injections) . . . You know, Mr. Speaker, it's fascinating, you have a man who pay \$100, \$200, \$300, \$500 an hour for rotten constitutional advice from every lawyer in the country and when he gets some good advice for nothing, all he can do is talk!

If, Mr. Speaker, the government is determined to pass section 39 . . .

AN HON. MEMBER: – Go and get Clarence Fines!

MR. MERCHANT: – . . . Of course, even Clarence Fins, when he got away from Saskatchewan wasn't a very good businessman, he lost most of his money in the hotel business. So what you are going to want to do is stay in the Cabinet if you go that route.

Mr. Speaker, I'm so glad to have you back. I'm having a great deal of trouble keeping the hon. Attorney General quiet. All right, now listen for a second. say to the Attorney General would you listen for one minute. Here's the problem. You've got section 39 and that allows private deals. We know that negotiations have to be handled in some way. Indeed we believe that negotiating with the oil industry is long overdue. For the same reasons that I said last year that we supported the Oil and Gas Conservation Board, I say to you know, pass this power to negotiate these deals to the Oil and Gas Conservation Board. They are respected, capable public servants, they understand the problem, they'll deal in an above the board way and then you'll end the problem of facing the criticism of a Cabinet of making secret deals. You'll end the potential criticisms of buy-offs and bribes. It's so simple. It puts the negotiations into the open, the negotiations shouldn't be hidden in the secrecy of the Cabinet room, no separate deals should be allowed anywhere, in my opinion, Mr. Speaker, and I'm sure in the opinion of the people of Saskatchewan. The Oil and Gas Conservation Board is a respected and capable board there to take over this job and do the job for you. We say that the safest course for the Saskatchewan taxpayer and perhaps the safest court for the NDP in a political way is to put those discretionary powers in the hands of the commission.

Mr. Speaker, what kinds of companies are apt to challenge this legislation? I've talked about the possibility for challenge. Let me just digress for a minute to deal with an area that we started to raise in question period today, and that is the problem of doubt taxation. I say again to the Attorney General that you've got to think about this problem, the area raised while you were not here by the -me for Morse. That problem

appears to be that you've got a double taxation against companies that didn't pay under protest under Bill 42. Now the Minister of Mineral Resources, who doesn't understand the problem, said that any taxes paid under Bill 42 will amount to a deduction for the purposes of tax under Bill 47. The point is they would have to amount to a tax credit as opposed to a deduction.

Let me explain that for a minutes, Mr. Speaker. Under taxing law, even if you have paid taxes under an illegal tax, if you've paid taxes under a tax which is subsequently found to be illegal, if you did to pay the tax dollars under protest you usually can't recover the return of your tax dollars. Many of the companies did not pay their money under protest and those are particularly the small Saskatchewan companies and they're the companies about which we are mot concerned. Perhaps it's \$100 million, perhaps it's \$250 million. We don't know. So you have a situation of companies having paid tax dollars under Bill 42, they can't recover their tax dollars under Bill 42, even if they go to court as Imperial Oil has done, because not only must Bill 42 go down but they would also have to get over an insurmountable hurdle for them and that is that they didn't pay under protest.

When the member for Morse said to the Minister of Mineral Resources, "Therefore these people will be paying double tax," and I said to him, "It's putting them in double jeopardy." He responded, "but they can take good tax dollars paid under Bill 42 as a deduction for the purposes of computing their tax but it would have to be a tax credit." Let's suppose that we were dealing with \$12 a barrel and expenses allowed as deductions amounted to \$3 and \$5 had been paid under Bill 42 leaving a profit of \$4 for the company. That was their profit. Now, even if they can take the \$5 that they paid under Bill 42 and deduct it for the purpose of an expense, they're still left with a profit of \$3 or \$4 and they have to pay tax again. They've paid their tax under Bill 42, that will be used to come up with a new profit rate and then they have to pay a new tax on that new profit. The only way that that could be even avoided would be to provide for a tax credit in the same way, for instance, that when some of us make contributions to a political party our tax credit comes right off our tax.

There's another area that the government chooses to ignore and the Attorney General, when he said this is purely a taxing matter, chose to ignore and that is that here we have taxing legislation being taken from parliament and the very essence of Parliament is the power to tax. For that reason alone it might be that this legislation could be struck down as unconstitutional, although in fairness, I believe that that criticism – and hear me clearly – the criticism of retroactivity would probably not be upheld. It's amazing to hear the Premier whenever anybody talks about unconstitutionality not say we think it's constitutional but say it won't be struck down because it's retroactive legislation. We rightfully agree with that. It probably won't be struck down because it's retroactive.

Now, Mr. Speaker, I only have a couple of brief remarks in conclusion. We say that this is not a good act. It gives too much power to the cabinet. For all the reasons I've discussed, it's a dangerous act. It is very likely an unconstitutional act. Our only reason for support would be that the Cabinet has succeeded in embroiling the Saskatchewan taxpayer with them in some of the NDP slime. We want, in the course of this debate, it's not going to end this week, it may not end next week, we want some real answers from the government about their confidence in the constitutionality of Bill 47. We need more than just a political blast from the Attorney General when he chooses to introduce this act. We have to have more than that to satisfy us that this legislation deserves our support. Where early in the debate we heard the Attorney General presumably we'll hear from the minister in charge of Mineral Resources. Presumably, well I suppose it

goes almost without saying, that we'll hear from the Premier. I can't imagine Allan Blakeney having the gall to not become involved in this debate as he avoided the potash debate. Now, I see the Attorney General smiling. Are you saying that the Premier won't be dirtying his little fingers with this debate, he won't be getting involved? I see, because I can't imagine the man responsible for this debacle not standing up in his place and accepting that responsibility. I can't imagine that the Premier will not tell the Saskatchewan people whether he thinks this act is constitutional or not. He chose not to tell us in Bill 42 and that, at least, with insight tells me a lot about what he thought of the Act. I can't imagine, Mr. Speaker, the Premier not choosing, and the Attorney General has had a pretty tough ride in the last few weeks, and he deserve it. I can't imagine the Premier not saying that part of the fault for all of this should really ride with him. He's a most interesting leader. He steps back and lets his troops take all the flak, he steps away from a decision that, I'm sure he's made, as though he had nothing to do with them, as though it was stupid legal advisor that got him into this mess. He almost implies that he's cleaner and better and above all that. He'd never have made the mistake. Well, I hope that he'll take some part in this debate and tell us that he still has some confidence in the Attorney General.

MR. KOSKIE: – Are you finished?

MR. MERCHANT: – I am finished and I say just in reference to the minister. That you have not succeeded in embroiling Saskatchewan taxpayers in the worst mess they've ever been in, ever, you can't back away from that. You've got them in a mess over potash, in a mess over oil. Bill 47 probably isn't going to solve the problem. People aren't going to be sucked in. I don't think and I say this to the member from Saskatoon, they're not going to be sucked in in the next election by this kind of legislation. All that you need to lose the next election flat out is for any company to launch a challenge to Bill 47, and don't think that some of them aren't going to do it just to drag you down. It's bad legislation. I believe it'll go down as being unconstitutional and I say too you now in Bill 47 just as the hon. Mr. Justice McLeod, who's gone to his reward for all his good advice in Bill 42, said to you in that debate, this act is probably bad legislation. It's probably unconstitutional. It's bad legislation and the only thing that might lead us to back the legislation, bad as it is, unjust as it is, is that you've somehow managed to embroil the Saskatchewan taxpayer in all the rotten NDP slime that you should be slopping over yourselves and saving us from.

SOME HON. MEMBERS: – Hear, hear!

MR. J.A. PEPPER (Weyburn): – Mr. Speaker, I find that this is a rather tough act to follow or a presentation, whatever you might call it, but I will assure you, Mr. Speaker, that I will not refer to bribes whether they be to politicians or to civil servants. I will do my best, Mr. Speaker, to lay some facts before this House that are worthy of consideration and I am sure that the citizens of our province, Mr. Speaker, elect us here to do this in a respectful and a knowledgeable way, and then hopefully they have a right to expect us to enact legislation to bring about fairness and justice to all.

SOME HON. MEMBERS: – Hear, hear!

MR. PEPPER: – Now, Mr. Speaker, in rising to participate in this debate, it immediately sets to mind the battle lines which were so clearly defined during our previous debate in the House not so long ago. And I draw particular reference to the debate on Bill 42. Do you remember, Mr. Speaker, the people of Saskatchewan remember clearly what members opposite said during that debate. Let me remind you some of the terms that

they used, unnecessary, unfair, insensitive and immoral. I still remember those words quite clearly, Mr. Speaker. They also said we were greedy. Mr. Speaker, we all remember their comments very clearly. At time it appeared that they were trying to outdo one another in their pledges of support and concern for the giant multinational oil companies operating in Saskatchewan. Now, Mr. Speaker, I have shared somewhat of a dilemma with my colleagues as we have attempted to rationalize the motives of members opposite. Whenever resource policy comes under discussion members opposite go before the television cameras, we all have noticed this, and they say that they wholeheartedly endorse the principle that our resources belong to the people of Saskatchewan. Then they walk back in here, into the Chamber and they spare nothing, Mr. Speaker, in their emotional defence of the oil lobby against the resource policies of this government.

Now, Mr. Speaker, I am pleased to say that this talk is that this talk is rapidly coming to an end, because people are sitting up and taking notice and they finally realize where the loyalties of members opposite are at, and as the debate progresses, they find it rather increasingly difficult to masquerade these allegiances, Mr. Speaker.

Mr. Speaker, what was the intent, if I might just mention of Bill 42? Oversimplified, this legislation, Bill 42, attempted to protect our position, in relationship to those windfall profits which accrued as a result of the escalating oil prices, brought on by the energy crisis. When the price of a barrel of oil jumped for, if I remember correctly, Mr. Speaker, roughly \$2.40 to close to \$10.00, our immediate and rightful response was to move quickly, to insure that the people of Saskatchewan, the rightful owners of the resource, benefitted from these windfall profits. We felt they should benefit from it. Certainly, we were not prepared to allow the oil companies to reap these unearned profits. At \$2.40 per barrel, they were earning then, it was a reasonable return on investment, so we set out to protect our position. Since 1974, accumulated profits for those oil companies operating in Saskatchewan, stand in excess of one billion dollars. We viewed that, Mr. Speaker, as more than reasonable, considering the fact that, since 1958 they have been taking out of the province, considerably more than they were investing in the Provincial Oil Industry. That is our reason I quote these facts, Mr. Speaker, because it is important that the people of Saskatchewan realize that the oil industry has not been done a disservice by this government, as so often alleged by members opposite mentioned.

Now, Mr. Speaker, in December of 1973, Bill No. 42 became law, although members opposite continued to predict doom and gloom for months after, and despite their emotionally charged predictions that Saskatchewan was going to experience a massive exodus of oil producers, and despite their assurance that this bill would completely destroy the investment climate in Saskatchewan. You know, Mr. Speaker, a funny thing happened, members opposite displayed an uncanny consistency. Their predictions were 100 per cent, they were 100 per cent wrong, because, Mr. Speaker, the investment climate in Saskatchewan has never been better, statistics support this fact. Oil activity certainly has kept pace, and in many instances, surpassed levels of production and exploration prior to those levels which existed before Bill 42. Look back at the statistics and they will find that they will prove it.

In fact, Mr. Speaker, at the height of all these gloomy predictions about the demise of the oil industry in Saskatchewan, from members opposite, I was sidetracked from their sermon very briefly last summer, if you remember, when I went to Weyburn to participate in the official opening of the brand new permanent headquarters, of the then Canadian Oil Company. Now, Mr. Speaker, let us further examine the facts. The amount

collected under Bill 42, was just under \$450 million.

Consider for a moment that during the last year of the former Liberal Government, the people of Saskatchewan received only \$37.5 million in resource revenues. Last year, the people of this province received \$337.2 million in resource revenues. At the current year the revenues will be even higher, and about 65 per cent of this money, or about \$240 mill will be spent on programs like health and education. Under Bill 42, we collected about \$450 million, our position is that this money belongs to the people of Saskatchewan, but, Mr. Speaker, the Supreme Court did not agree. Therefore we find ourselves debating this new legislation, Bill 47. As events have unveiled, however, a number of interesting and highly significant situations have developed also. Members opposite are on record as opposing Bill 42. They felt the government has no right to deprive the oil industry of these windfall profits. Quite obviously our position was different. Responding to the assurances contained in the BNA Act, we moved to protect our position. Our legislative position was ruled entirely constitutional by the Saskatchewan Court of Queen's Bench and by the Saskatchewan Court of Appeal. A total of six federally appointed justices in these courts were unanimous in denying the claim of Canadian Industrial Gas and Oil Limited, that small Canadian company which employs over 3,400 employees. In the Supreme Court, two more federally appointed judges sided with our legislative initiative. However, Mr. Speaker, seven broke new ground in overturning the original judgment. So, I would say, Mr. Speaker, out of 15 judges, eight said the province of Saskatchewan had acted within its constitutional power, seven said it did not. The ramifications of the Supreme Court decision are legal, however we firmly believe the issue remains a moral one and this legislation will ensure that the people of Saskatchewan are not deprived of their rightful claim to these windfall oil profits, that's why we'll bring it in. Members opposite try in vain, Mr. Speaker, to confuse the issue. They attempt to sidetrack this government from fulfilling its obligation to the people of Saskatchewan; they continually attempt to discredit our commitment, they find it convenient to criticize and condemn, to challenge and to oppose, but they find it impossible to realign their allegiance. You know, Mr. Speaker, they cannot come to grips with the realization that they are in this Legislature here today with the prime and the sole responsibility to represent the interests of Saskatchewan people, not to serve as the watchdogs, if I might refer to them as that, and defenders of the multinational oil lobby, their motives are well known. Let us look at the facts. When the CIGOL decision was handed down the Leader of the Conservatives immediately called for the resignation of the Attorney General. Of course, Mr. Speaker, that is his right, but let us examine his motives. If he felt so strongly about his contention that we were in error and should step down as result, why did he not equally demand the resignation of those eight federal justices who ruled that our position was correct. Why did he not criticize the Attorney General of Conservative Alberta or the AGs of Manitoba and Quebec who also backed the position of this government and the legislation that was contained in Bill 42. Now, Mr. Speaker, the member for Nipawin was faced with a dilemma and rather than back the government, rather than back the Attorney General, and rather than back the people of Saskatchewan, he took the easy way out and chose rather to condemn outright this government and the Attorney General with the hope that the public will lose sight of the fact that his position and that of the Conservative party is not consistent with the best interests of the province and its people. I have noticed, Mr. Speaker, that the member for Nipawin . . .

MR. SPEAKER: – I've noticed this afternoon the decorum of the House is not at the level which we normally have it, which is sometimes not too good and I don't wish to specify any particular member, but, just cite the rules of decorum, of the House, rule 18, when a member is speaking, no member shall interrupt, except to raise a point of order. Now, it is quite plain to me, that the member that is presently speaking, treats this House in a fashion, which is a good example for other members and I think that other members should reciprocate, when that member is speaking, that's only common decency, and in addition to that, it's not permissible under the rules of the House for members to refer to other members personally, they may refer to the member, as the hon. member for whatever constituency, that member is from, but they may not refer to the member, on a personal basis, and I think that members should keep this in mind, and along with me try to raise the level of decorum in the House, I might say, especially for the member from Weyburn.

MR. PEPPER: – Thank you, Mr. Speaker. I do not ask for any special treatment, in any way, shape or form, but I would like to see the decorum of the House, and all members to represent the responsibility that they are elected here to do. If I might just carry on where I left off, Mr. Speaker. The member for Nipawin has always been quick to point out to us, here, and to point to Alberta, whenever he thinks the time is right and he is quick to point westward in relationship to this issue as well. he repeated, over and over again if we had adopted Alberta's position in the first place, we would never have found ourselves in the position that we face today. But what he doesn't say is this, that if we had adopted the Alberta position, we would have collected about half the oil revenue, we collected under Bill 42. I say to you, Mr. Speaker, the Conservatives would like us to get the oil companies \$250 million right now, and then start negotiations for the other \$250 million. That, Mr. Speaker, is what the Conservatives would like us to do, they would say to the oil companies, listen, you deserve this money, here is a quarter of a billion dollars to add to that one billion dollars in profit that you have taken from this province in the past number of years. Now, Mr. Speaker, no sooner had this new strategy been deflated, then they decided that we should approach Ottawa for help. it has just been a very short time ago that they asked for this. The people of Saskatchewan, I say to you, Mr. Speaker, cannot afford the level of assistance Ottawa is capable of offering, because I am going to ask you to look at the facts. In 1974, federal Liberals made royalties non-deductible for tax purposes, double taxation. Through the export tax, they have taken more money in federal taxes on Saskatchewan oil than the province received under Bill 42. They invaded the gasoline tax field, traditionally reserved for the provinces, with a 10 cent a gallon excise tax at the pumps. They walked through the court rooms of the nation, in case after case attacking our resource policies, including the CIGOL case, supporting the multinationals and opposing Saskatchewan. Now, Mr. Speaker, do you think the province of Saskatchewan can stand the strain of any more federal Liberal government support I ask you? Where do the provincial Liberals stand on this issue, just where do the provincial Liberals, just where do the federal and the provincial Liberals stand on the issue? So far, Mr. Speaker, they have re fused to say where they are in relationship to this legislation. We know where they stood on Bill 42. We know where their federal counterparts stood and still stand and it is time for Liberals in this Legislature to tell the people of Saskatchewan where they stand.

Perhaps the fact that eight of the largest oil companies in Canada pump over a half a

million dollars a year into the Liberal and Conservative coffers each year is a factor, but I would hope that such a tidy little gratuity, if you might call it that, Mr. Speaker, would not jeopardize their objectivity. Perhaps we get a hint of what they really stand for when they propose that we take the legislation to the courts for a ruling on its constitutional validity before considering its passage.

I say to you, Mr. Speaker, we all know this process takes time, yes, years in fact. Even if it was expedite and a decision was handed down in one year, we would find ourselves face to face with the fact that we would lose \$500,000 per day, or \$182.5 million in one year – to whom – to the multinationals that could exploit our oil at will and at almost no cost.

Now, Mr. Speaker, that is what the Liberals want us to do. I say to you that the time is now for a decision. Are you with the government and the people of Saskatchewan or do you take the convenient route and retreat to the comfortable and familiar surroundings of the multinational boardrooms, you have your choice. Again I say, Mr. Speaker, the moment of truth has arrived.

I can think, Mr. Speaker, of no issue which has emerged in the Legislature in the past which carries with it such important ramifications because at stake is our determination as a province to fulfill our full and active apart as a full member of confederation. Our ability to fulfill our goal has been challenged at a time when we all share a common and a sincere concern about the future of confederation. We find ourselves face to face with an important and potentially divisive issue.

For decades we have fought and fought hard to fulfill our rightful role in this great nation. The uphill battle has not been an easy one. The inequities we have faced have been many. But I can assure you, Mr. Speaker, that as result of positive leadership by the Premier, all Canadians have been provided with a new option, an option which presents positive and thoughtful considerations. His leadership and his determination should not be taken lightly by any member of this Assembly. Narrow political ideologies must not place into jeopardy long range goals that we collectively share for our province and for our nation.

As I stated earlier, the Supreme Court decision involving CIGOL carries legal considerations but also has attached to it vitally important moral implications. I have said this before, Mr. Speaker, and I say it again, that God given resources of Saskatchewan are our chance to fulfill our economic and social goals. This New Democratic government will not sacrifice these resources for any short term concession or long term accommodation. We have a commitment. Our position is unalterable and I am proud to stand here today, Mr. Speaker, in the Legislature, in support of a government which has the determination and the foresight to introduce measures consistent with those principles, Mr. Speaker. I am sure that you know by now that I am proud to offer my full support to this legislation, Bill 47.

MR. W.J.G. ALLEN (Regina Rosemont): – Mr. Speaker, before I begin the formal part of my address, I would like to just respond to a couple of points that the hon. member for Regina Wascana made in his earlier remarks in this debate. Just listening to the tenor of the remarks of the hon. member, Mr. Speaker, I asked myself the question of whether or not that particular member would be handling this case in the courts for the oil companies, the way he is handling it in the Legislature this afternoon. I doubt that. I think they could probably get better constitutional lawyers but it seemed to me that his speech was fairly legalistic and, in fact, if what he said near the end of his remarks were

true (what he said at that time was that no self-respecting government would bring in this kind of legislation) that would tell me, Mr. Speaker, that no self-respecting opposition would vote for this kind of legislation. We have yet to hear from the Liberal Party on where they stand. We have yet to hear from them – if they don't agree with this legislation, proposing any concrete alternatives to this legislation, Mr. Speaker. I suggest that they probably don't have any concrete . . . (interjection) well that may be true give it back to the oil companies.

Mr. Speaker, I rise in support of Bill 47 and in doing so I cannot restrain myself from saying that this bill should not have been necessary. I choose my words with care when I say that the decision of the Supreme Court of Canada, in the CIGOL case was outrageous, outrageous not only because of its effect on our province's right to control our resources but outrageous, Mr. Speaker, because it enforces in law a view of Confederation that is held only by the Prime Minister, his government and a small number of other Canadians, seven of whom happen to sit in the Supreme Court of Canada. I do not question the competence of the seven Justices of the Supreme Court as I do not question the competence of the Prime Minister. But I do say that that court is a Trudeau court appointed by him because they share a common view of the constitution and of the powers of the federal government and the provincial governments in relation to that constitution.

I recall the controversy surround the appointment of the Chief Justice Laskin to the court and I quote, Mr. Speaker, from a Leader Post article of January 9, 1974, page 41 of that issue and I quote:

So far the Prime Minister has not explained this leapfrogging choice (leapfrogging being that Justice Martland, or whatever his name was, was jumped over for Justice Laskin), except to indicate that the Laskin appointment was recommended by who? Justice Minister Otto Lang. (A little further on in this article, -ms they went on and I quote) Mr. Justice Laskin is an eminent legal scholar whose writings in the field of jurisdictional interpretation and the philosophy of system or law are well known. They indicate (although this too is subject to interpretation) that he is a strong centralist who leans towards the concept of a powerful national government.

Then continuing on a little later, the writer also said, "In other words, Mr. Justice Laskin in they eyes of the Trudeau regime will be more likely to see most jurisdictional issues Ottawa's way." Well I think that is certainly the case.

MR. ROLFES: – Who says that?

MR. ALLEN: – The Leader Post, believe it or not. The article also went on to say and this is an interesting point, very, very interesting. "Two former members of the court," Mr. Speaker, "Chief Justice Gerald Fauteux and Mr. Justice Douglas Abbott were retired without explanation in December considerably before the statutory retirement date. One hesitates to infer (the article goes on, not me, the article) that these retirements may have been because Mr. Trudeau thought it unlikely that the men in question would participate satisfactorily from Ottawa's viewpoint in the federal-provincial tug-of-war for constitutional power. Again in the absence of any clear official explanation this inference hangs, there an answer." Well, I suggest, Mr. Speaker, that the recent decision of the Supreme Court has answered that question.

I would also like to quote from an article I found in the MacLean's magazine of July of

1974 on the subject and I quote again:

Laskin had a reputation developed over two decades in his speeches and in his writing and in his teachings of being a federalist – a strong believer in the constitutional privacy of the federal government.

Well what am I trying to say with all these quotations, Mr. Speaker?

MR. MERCHANT: – God only knows.

MR. ALLEN: – Well, what I am trying to say member for Wascana, is simply for you and as clearly as possible that the federal Trudeau government has used its power in terms of appointing justices to the Supreme Court of Canada, in terms of joining oil companies to challenge duly elected governments and provinces, to attack provincial rights. They have used this power in a very arrogant way to force on Canadians a particular and a peculiar view of Canadian Confederation. Mr. Speaker, in my view, when the history books are written 50 years from now and the different Prime Ministers of Canada are assessed over the first 100 years, Mr. Pearson will be written off as our greatest Prime Minister. Why would I say that, not being a Liberal? I say it because under very, very difficult circumstances, Mr. Speaker, he was able to use his diplomatic skills and following his doctrine of co-operative federalism, he was able to get people in governments all across Canada to agree on many things, medicare is just one of them. Up until this point in time I've always taken the view, particularly in my own party in terms of our debates there, that reasonable people sitting down together can work out arrangements for the mutual benefit of all Canadians. I have believed right up to this point that that is could be done under our existing constitution with very minor changes. I don't believe this any more, Mr. Speaker. The time has come for us in Canada to sit down and write some new ground rules. If this is not done soon, we will have to contend with the fact, that the constitution of our country will be written, not by elected representatives of the people of Canada, but by appointed representatives of the Trudeau government, the Supreme Court of Canada.

Now, Mr. Speaker, I wouldn't want to sit down without saying a few words about the oil companies in relation to this bill. The opposition has said that if we had not got ourselves into this position we wouldn't be here today, if we hadn't been unreasonable with the oil industry. Their definition, Mr. Speaker, of reasonable, I take it to be the Alberta Tory government. That's the closest I've heard them come to being reasonable. They also said that when Bill 42 was introduced, that the oil industry would leave the province and never come back. Well that simply hasn't been borne out by the facts. Sure, there was a temporary lull in exploration but they are all back. Mr. Speaker, they are all back now and on a lot better terms for the citizens of Saskatchewan than they would have had, had we listened to those guys in 1973. They are here because this government had the good sense to say to them that we would give them more money if they reinvested that money in Saskatchewan. I'll tell you, Mr. Speaker, the citizens of Sudbury wish today that their government, the Conservative government, had done with INCO what we have done with these oil companies instead of allowing that company to take large profits and reinvest those profits in low wage countries, thus putting thousands of Canadians out of work. No, Mr. Speaker, the world is changing and the rules are changing. I want to read a little article that I found in the Leader Post. It's just a short one, if I can find the darn thing, it's here some place. It deals with the government of Egypt, an arrangement that they made with the three companies in the – I seem to have misplaced it, Mr. Speaker. I'll tell you what it said. Three international oil companies from the United States to go Egypt and they say that we want to drill for

some oil. The government of Egypt says that we'll make out an agreement with you. What was that agreement? That agreement, Mr. Speaker, was this. They said that you can drill for oil but if you find oil, 75 per cent of the production of that oil is ours, the government of Egypt, 25 per cent is the international cartel's share. In the case of gas, natural gas, 70 per cent belongs to the people of Egypt, 30 per cent belongs to these oil companies. Now these companies, Mr. Speaker, are playing by these new rules and they are still making fairly good profits for their shareholders. I'm not going to recite all the profit figures that have been put out by the Minister of Mineral Resources and others in this House.

What would the opposition suggest? The opposition parties suggest that our government do less for our people than the government of Egypt is doing for theirs. Mr. Speaker, the opposition, I think, has a major failing – well they have a lot of minor failings too, the most notable being the member for Regina Wascana – but their major failing is, I think, that they are just too doctrinaire. Their slavish adherence to a long since dead philosophy of free enterprise has blinded them to the facts of the real world.

We live in a world in which economic power is becoming more and more concentrated. The major decisions that affect the whole economy of this country and the world are being made by fewer and fewer people every year. The impact of these individual decisions are affecting more and more people, INCO makes a decision, 3,000 or 4,000 people are out of work. In our own province we can look at oil refineries and refining jobs and compare them to 10 years ago; what have we got left, the Co-ops? Profit as opposed to people (interjections) . . .

The hon. member for Saskatoon Eastview is asking me why. Well I'd be delighted to tell him why – because the interests of Imperial Oil are the interests of making profits for their shareholders and exclusively that. Now the interests of a provincial government surely are to protect the interests of its people. That's the difference between you and me. Now you're a nice guy. I like you fine, member for Eastview. I think you are a wonderful guy, but I think you'd be a disaster. Why? Because your interests aren't in saving these precious resources, saving jobs for people but for serving these people that you yap about and stand up for every day in this Legislature.

Now, Mr. Speaker, we can also point to meat packing, all the meat packing plants are leaving. When the government does something to ensure jobs in the case of Intercontinental we are roundly attacked by the members opposite. The point is that slogans, Mr. Speaker, are no longer any good. Doctrinaire free enterprise capitalism is as meaningless, Mr. Speaker, to the modern world as is a doctrinaire Marxist socialism. Our government recognizes that and uses those tools which are most appropriate in a given situation. In potash, it's public ownership of a large part of the industry; in mining, we have private, public and we have joint ventures.

MR. MALONE: – Who with, Bill?

MR. ALLEN: – Absolutely. Uranus is an example of people from Germany who are not high bound doctrinaire capitalist devils the way they are down in the States, who have no concept whatever of government involvement; they think that there's something the matter with that.

Let me tell you guys a story now that you brought up the point. I'm on an airplane flying down to Ottawa, and whom am I sitting beside but a 'Brit', a guy from Britain, a businessman, a young guy. He sits down, he just came back from Calgary. I start talking

to this guy, the subject of politics comes up and he tells me he's a Tory. Well I say that sounds reasonable for a businessman from Britain to probably be a Tory. I ask him what he was doing in Calgary? He says that he was talking to some government and business officials. He says that the kind of stuff they told me, we couldn't get away with in Great Britain, we couldn't get away with that anywhere in Europe. He says that you guys are 100 years behind time. Honest to goodness the rest of the world is leaving us behind in terms of co-operation between governments and business.

MR. ROMANOW: – He couldn't believe the deal the Tories were given!

MR. ALLEN: – He couldn't believe the deal, yes. He was thinking of moving his company to Alberta.

Mr. Speaker, co-operative enterprise we have also encouraged, as governments also encourage. In the case of our oil resources, we have followed a policy of regulation and taxation in the past and we still hold to that policy today as evidence by Bill 47. I hope that we are able to remain with this policy in the future because I think it makes the best sense for Saskatchewan.

MR. PENNER: – . . . worried about your political life as you are now!

MR. ALLEN: – Oh, Mr. Speaker, I really shouldn't be carried away by these meanderings by the members opposite but the member for Eastview insists on provoking me. I cannot imagine a Liberal in the province of Saskatchewan talking about political fear! Now you have got to be putting me on! You have got to be putting me on! (Interjections of laughter.)

Mr. Speaker, I noted that the opposition was upset because the rate of taxation was not in this bill. I don't think it really has to be because the government should have, I think, some flexibility in terms of dealing with the industry at this time. However, I will be very disappointed, Mr. Speaker. I speak as a private member, if we give as much as one five cent piece back to the industry of the taxes collected under Bill 42.

SOME HON. MEMBERS: – Hear, hear!

MR. ALLEN: – You know, Mr. Speaker, this is a little bit like the farmer. A farmer has a piece of land that he wants to rent and he is going to rent it at a given price. He puts a little ad in the paper and all the other farmers around look at it. A farmer comes along and says, yes, I want to rent your land. Everybody would say if this farmer chooses to rent that land, he should pay the price that was agreed to. If the oil companies choose to use our oil at a given price, then they should pay the price of the oil or not take the oil in the first place. Farmers, doesn't that sound reasonable? Have we any farmers left in this House?

AN HON. MEMBER: – Those Tories . . .

MR. ALLEN: – That is right. It doesn't sound reasonable to them. I agree with the Premier when he says that we will give them back the money when they give us back the oil. That makes sense to me too.

Mr. Speaker, when I look at this situation and repeat what the member for Weyburn (Mr.

Pepper) said, that by 1964 the oil industry had got back everything that it had invested in Saskatchewan. Since that time what has happened? They have taken out \$1 billion over and above what they have put in. We would have to be out of our minds, Mr. Speaker, to even consider giving them back \$500 million or \$250 million, or two cents; we would have to be out of our minds. We are not going to do it.

To conclude my point on the oil companies let me say this . . .

MR. MALONE: – Consider the source . . .

MR. ALLEN: – I know that I am not in the same league as the member for Lakeview (Mr. Malone) but I would like to say this to the member for Lakeview because I am sure when he is defeated in the next election he will find some job like this as an executive of an oil company. Now, if I were an executive of an oil company, which isn't likely ever to happen, I'd be ready to strangle CIGOL. I would be ready to strangle the federal government for getting me into this. Here they have gone all the way to the Supreme Court and for what, Mr. Speaker? Well, it made virtually everyone in Saskatchewan mad . . . at whom? Not at the government, which they wanted to do, but they are all mad at the oil companies wanting to get this \$500 million back. they are getting increasingly angry with the opposition. But secondly, they have got our traditional allies, I being an oil company executive, my traditional ally, the Conservative Party voting with the NDP because nobody in Saskatchewan thinks we should give the money back. Even the member for Nipawin (Mr. Colver) isn't going to allow his principle to stand in the way of a few votes. And finally, CIGOL, you have put me to a great deal of time and expense to conform to a new method of taxation that I can't get any return on.

Mr. Speaker, I have really enjoyed watching the opposition trying to handle this question. I am hoping the Liberals will vote against – I hope they will show their courage and stand up and vote against this bill. You will recall that their main objection to Bill 42 was that it took too much money away from the oil companies. Now, the Conservatives are saying they will vote in favor of the bill knowing full well that this bill will have the same result. The Liberals have so far taken their hard line position of, I guess we will wait and see. You know what this proves to me, Mr. Speaker. It proves that the resource policies of this government are well accepted by the public. It proves the old line parties are afraid to vote against this bill and go against public opinion. I challenge any of you to vote against it.

SOME HON. MEMBERS: – Hear, hear!

MR. ALLEN: – It also proves to me that these spokesmen are now admitting publicly, Mr. Speaker, that we were right in enacting Bill 42. I say publicly, Mr. Speaker, but private I think they probably still think we are wrong. I think they still think we are too hard on the oil companies. but they can't get away with that, there is no way you get away with that today.

The Conservatives say that we should implement the Alberta system – cost us about \$250 million. Well, this is probably what they would do if they were in power, Mr. Speaker. They would gladly give back \$250 million to the oil companies. The Liberals though I think have the most interesting hard line position. The Liberals say they would sit down with the industry and work out a deal acceptable to them, a deal acceptable to the oil industry. In other words let the oil companies write their own taxes. Wouldn't we all like to write our own taxes, Mr. Speaker. I have no doubt that this is what the Liberals would do if they were in government. God knows they did it when they were in the

government before. What is the increase in taxes? I can't remember. Is it from \$3 million or \$37 million to \$370 million – Liberal to NDP. I am sure you guys would sit down and negotiate with the oil industry. Well, I have got news for you guys. The public is wise to you. Wise to the Liberals, they have been wise to them for about two and one-half years and they are wise to the Conservatives, getting wiser every day to them. You are not going to get a chance to implement any of these policies.

Mr. Speaker, I have carried on a few minutes longer than I had planned to. I was maliciously provoked by members opposite. Just in conclusion I would like to say that from my remarks. I am sure you can guess that I will be supporting this legislation and, Mr. Speaker, any other legislation that ensures for the people of Saskatchewan their rightful share of their resources.

SOME HON. MEMBERS: – Hear, hear!

SOME HON. MEMBERS: – Hear, hear!

MR. J. WIEBE (Morse): – Well, Mr. Speaker, if I am given enough time this afternoon, I might get around to it.

I am hoping to be able to spend more time debating this particular bill tomorrow afternoon so at the conclusion of my remarks this evening I would like to adjourn the debate.

Let me say that once again I suffered through an afternoon searching for some kind of reasoning from government members opposite as to why there were implementing this particular piece of legislation, wondering whether they would answer some of the questions which we have asked in regard to various clauses of the particular bill, hoping with all hope that an individual might have that when the Attorney General introduced the legislation on Monday that he might have spent at least half an hour of his two and a half hour speech talking about the particular bill and what it would mean to the people of this province. The Attorney General failed to do that on Monday afternoon, both members from the government side of the House failed to do it as well. I was rather surprised that the member for Weyburn (Mr. Pepper) would have not taken the type of approach which all of us expected and that was to deal with the aspects of that particular bill. I must say though that I was rather amused by the member for Rosemont (Mr. Allen) and some of his comments in regard to the rush which our caucus is running into in determining whether to support the bill or whether or not to support the bill. I know that the member for Rosemont wasn't here in 1973 when Bill 42 was debated, but the Liberal opposition at that point in time took their time determining whether they were going to support that particular bill or not. The reason why we took our time at that particular point in time is for exactly the same reason we are doing today. It's not good enough for a political party or a member in this House to go off half-cocked because of some kind of political advantage that he thinks that he may gain in the hustings of this province.

SOME HON. MEMBERS: – Hear, hear!

MR. WIEBE: – Mr. Speaker, Mr. Attorney General, we have a responsibility to the people that we represent and the people of this province to not only govern as to what's best for re-election but what's best for this province in the long run.

SOME HON. MEMBERS: – Hear, hear!

MR. WIEBE: – At no time during your speech on Monday or the two members who

spoke today did you give me or this House any assurance whatsoever that that bill which you are introducing is constitutional. At no time did you give me the assurance that three years from now we would not be faced with a one billion dollar bill instead of \$500 million bill which is faced today. And you are asking the Liberal opposition to take the same political approach that the Tories did and jump into a quick decision, just because we might be able to garner some votes out on the hustings in this particular point today.

Mr. Attorney General, Mr. Speaker, we were right in 1974 with Bill 42 and you can rest assured we are going to be right in 1979 with Bill 47. Mr. Speaker, with those few remarks I beg leave to adjourn the debate.

Debate adjourned.

The Assembly adjourned at 4:33 o'clock p.m.