

**LEGISLATIVE ASSEMBLY OF SASKATCHEWAN**  
**First Session — Thirteenth Legislature**  
**35th Day**

**Wednesday, April 3, 1957**

The House resumed at 2.30 o'clock p.m.  
On the Orders of the Day:

**CORRECTION**

**Royal Commission re Mineral Deals**

**Premier Douglas:** — Mr. Speaker, before the Orders of the Day are proceeded with, I would like to refer to the transcript of the House of last Friday's sittings, March 29. The member for Cannington (Mr. McCarthy) asked me a question with regard to a newspaper item which appeared in 'The Western Producer' and the part of my reply to which I refer said:

“With respect to the matter of the terms of reference being broadened, I would like to point out two things. One is that the request of the Mineral Owners' Protective Association has to do with only the deals of this particular group.”

I think I should more properly have said that, “after discussions between the Government and representatives of the Mineral Owners' Protective Association, it was agreed that any investigation should have to do with only the deals of this particular company.”

**Mr. McDonald (Leader of the Official Opposition):** — Mr. Speaker, on that point I just want to make it clear, the right to take from the remarks of the Premier, that the only cases in which you would be prepared to investigate any oil deals would be those that come through the Farmers' Protective Association — or whatever you call that group — Mineral Owners' Protective Association.

**Premier Douglas:** — No, I just did not want to leave any wrong impression. This group has approached us with respect to a number of propositions. After discussing it with them, it was agreed first that, if there was going to be an investigation it should be with respect to these particular deals by this particular Company, which seems to indicate the most need for some investigation. Then I went on to say, secondly: “If it is necessary to broaden the terms of reference at a later date, it can always be done, if some of the investigation indicates that the Government would be warranted in broadening the terms of reference.” I merely wanted to make it clear. I want to remove any doubt in anybody's mind that in saying that representation has only been made with respect to this one Company,

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I did not mean to imply that no other representations have been made. A number of representations have been made, but on discussion it was agreed that at least the investigation for the time being should be confined to this particular Company.

### **REFERENCE TO NEWSPAPER REPORT**

**Hon. C.M. Fines (Provincial Treasurer):** — Before the Orders of the Day are proceeded with, Mr. Speaker, I would like to refer to a statement appearing in this morning's 'Leader-Post': "Loptson Charges C.C.F. broke Seed Grain Loan Promise":

"A charge the C.C.F. promised in 1944 to accept 100 per cent responsibility for the 1938 seed grain loans to farmers, and then reduced the offer by half the following year, was made by A. Loptson (L), Saltcoats, when the Legislature was sitting in Committee of Supply discussing estimates on Monday night.

"Provincial Treasurer, C.M. Fines, denied the charge and offered to get the 1944 C.C.F. platform, and prove it."

Mr. Speaker, I hold in my hand the C.C.F. program on seed grain repayments, the official document that was used in the 1944 election. Here is the C.C.F. program on seed grain relief:

1. "Cancellation of all direct relief and winter maintenance up to the end of 1940, and all feed and seeding supplies up until the end of 1937.
2. Adjustment of seed and seeding advances for 1938 by the Government accepting 50 per cent of the principal as full repayment.
3. All those who have paid their 1937 and 1938 seed advances shall be repaid in tax credits, or otherwise reimbursed for their payments."

That was the platform that was used in 1944, and it proves again conclusively that the imagination of the hon. member for Saltcoats (Mr. Loptson) sometimes gets the better of him.

**Mr. Loptson:** — Mr. Speaker, before the Orders of the Day, I wish to. . .

**Mr. Speaker:** — It cannot be debated at this time.

**Mr. Loptson:** — Well, I can at least repeat what I said last night, that no matter what the platform was, this speech made on the hustings was that they were going to cancel them all. The same thing was said about the Education Tax; it was to be taken off.

**Mr. Speaker:** — Order!

**Mr. McDonald:** — Do you deny that?

**Hon. Mr. Fines:** — We'll bring you the speeches, too.

**Mr. Danielson (Arm River):** — It's what your Hansard says.

## SECOND READING

### Bill No. 82 – An act to Amend The Mechanics' Lien Act.

The Assembly resumed from Wednesday, March 27, 1957, the adjourned debate on the proposed motion of the Hon. Mr. Walker:

That Bill No. 82 — An Act to amend The Mechanics' Lien Act — be now read the second time.

**Mrs. M.J. Batten (Humboldt):** — Mr. Speaker, I have had an opportunity to discuss this matter with the hon. Attorney General. I am still far from satisfied that the hon. member knows and understands fully the effects that this proposed amendment will have. I feel that, until there has been some clear statement or some clear understanding of the case law on the subject of the effect of a lien on the fixtures and chattels at the mine-head, and the effect of the cancellation of the lease on those chattels, this amendment should not be made law. I feel that this might have a very adverse effect on loans for the purpose of mining, and, therefore, I am against this amendment on principle, and shall not support it.

**Mr. Speaker:** — It is my duty to inform the House that the hon. minister is about to close the debate. Anyone wishing to speak may do so now.

**Hon. R.A. Walker (Attorney General):** — In reply, Mr. Speaker, to the argument made by the hon. member from Humboldt, I would like to point out that the effect of the Mechanics' Lien Act is to give by Statute a right which does not exist as common law, and that is the right by a vendor of chattels or materials, or goods, to impose a lien on the land on which those goods are used or affixed. The lien is against the land. The principle of the Mechanics' Lien Act has always been that the lien is against the title to the land.

Back in the 1930's, when the first mineral leases were granted, it was decided by the Government at that time to extend the right of the lien to include, in respect to mines and mineral lands, a lien upon fixtures, machinery, tools, appliances, equipment and other property in or on the mine, was a departure from the general principle that a lien should only attach to land.

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The reason that the lien is only attached to land is because there is no other place to register a mechanics' lien except against the title to a piece of land. No general provision is made for registration of a mechanics' lien against chattels, fixtures, machinery or any other kind of movables.

When the Legislature passed that Section in the late 1930's, they prefaced it with these words: "A person who has a lien under sub-section (1) in respect of any mine, etc., shall also have a lien upon the fixtures, machinery, tools, appliances," and so on. The intent of the section is clear; that it is only while there is a lien against the mine or mining claim, that any lien can be recognized against the chattels, fixtures, tools or equipment. That, of course, only makes sense, because, as I have already pointed out, there is no way of registering a lien against chattels. There is no provision in the Act for registration of lien against chattels. There is no provision in the Act for registration of lien against chattels, and so it was the deliberate intention of the Legislature, and it is clearly expressed, I submit, in sub-section (2) of section 4, that no liens should exist against chattels unless there was a lien subsisting at the time, against the mineral rights or the mines.

Then, Section 2 says, that where the claim for lien is in connection with any mine, mining claim, mining land, oil well or gas well, held from or under the Crown, the claim shall be made to the supervisor of mines, Department of Mineral Resources, Regina, instead of to the Registrar of Land Titles, and all the provisions of this Act respecting registration and procedure of the Land Titles Office shall apply *mutatis mutandis*, which means that provisions of the Land Titles with respect to registration of a lien are being extended over into this register, which the officer of the Department of Mines keeps, and the principle is the same. The lien is restricted to land, or to an interest to land.

Then sub-section (2) says: "Such liens shall not affect the rights of the Crown." That means that when the lease or permit of mines and minerals is vacated or cancelled or surrendered, the lien disappears, because the lien cannot affect the rights of the Crown, and when the leases or permits are cancelled or vacated, it is then vested back in the Crown, and no lien can exist after that moment. If no lien can exist after that moment against the mines or minerals, it follows from sub-section (2) of section 4 that neither can a lien exist with respect to the appliances, equipment or other property in or on the mine. So there was an oversight in the Act as it previously existed, in that there was no provision for removing the lien off the title after it reverted to the Crown. These liens were of no legal affect or consequence, whatever, but still appear as an endorsement on the title; no provision was made for their removal. The fact that they may be removed from the title, I submit, does not affect any lien against chattels or goods because no lien can exist against chattels or goods unless there is a valid and subsisting lien against the land.

All this legislation purports to do is to strike off these obsolete endorsements that appear on all our mineral permits in this province. You say, why should we strike them off? Because, when a successor comes along to apply for a permit which has once been held, here are all these endorsements appearing on the title with no legal provision for getting them off.

It has to be pointed out to them that they have no legal effect whatever; that they are just on there, and have no legal effect any more because of sub-section (2) of Section 21 – “the liens shall not affect the rights of the Crown”, and properties now vested in the Crown; therefore it can have no effect. So this amended merely provides in The Mechanics’ Lien Act for striking off these obsolete notations that appear on the title. As a matter of fact, the Mineral Resources Department (I am told) patiently explain to people who come in for a permit which has some of these endorsements on it, that they are of no legal significance. I am told that the mineral companies who take these permits have got their own legal advice, and it has corroborated the advice which the Mineral Resources Department has given them, in every case. They have taken the permits, disregarding altogether these notations. I suggest there is no substantial legal opinion to the contrary effect. Therefore, in order to tidy up these liens and claims, this legislation is proposed.

I may say that one solicitor did approach me to the effect that he intends to pursue his lien against chattels on a permit that has already reverted to the Crown, and I did make him the offer that, if he would pursue his claim soon, the Government was prepared to allow this legislation to stand over and to come into effect on proclamation. I have not got his assurance, however, that he is prepared to prosecute his claim and get it out of the way. The Government has no intention of defeating any interest which any person might have against chattels on such property, and if some substantial assurance had come forward that it was the intention to have this matter decided by the Court, we of course would accept the delay necessary up to a month or two, in order to have that done. But the only person who has complained, and who has brought this matter to my attention, is not prepared to have the matter disposed of in Court. Therefore, I can only say that I come to the same opinion I had before, that there is no claim against chattels or fixtures, and I must say that that opinion is supported unanimously by the law officers of the Crown. I therefore move second reading of this Bill.

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(Motion agreed to, and Bill referred to a Committee of the Whole at next sitting.)