LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
First Session — Eighteenth Legislature
45th Day

Tuesday, January 27, 1976.

The Assembly met at 10:00 o'clock a.m.
On the Orders of the Day.

QUESTIONS

SURVEY ON POTASH TAKEOVER

Mr. E.C. Malone (Regina Lakeview): — Mr. Speaker, before the Orders of the Day I have a question I would like to address to the Premier but I see he is not available this morning. I would address the question either to the Attorney General or the Minister in charge of the Potash Corporation of Saskatchewan (Mr. Cowley). I understand, Mr. Speaker, that a copy of a survey conducted by Contemporary Research Centre on behalf of the Canadian Potash Producers Association was delivered this morning to the Premier. The survey indicates – by the way the Contemporary Research Centre is a company that has often worked for the Government of Saskatchewan conducting survey polls for them – my question is, are you aware of the survey and that it finds that 52 per cent of the people of Saskatchewan that were questioned, of 1,300 people questions, 52 per cent of them are opposed to the potash takeover, 22 per cent are in favour and 24 per cent have no opinion?

Hon. E. Cowley (Provincial Secretary)**:** — Mr. Speaker, I want to say first of all that I am aware of the letter which the Premier received. I want to say secondly, as the Attorney General did when we were presented with the survey, that I would have been very surprised if the potash producers would have provided us with a survey that showed any other than the results that the Member suggests. I want to further say that I am not aware of the Contemporary Research Associates or whatever the group is, ever having done any work for the Government of Saskatchewan, although they may have been employed by some agency that I am not aware of.

Mr. Malone: — Well, my supplementary question the, Mr. Speaker. I take it from those remarks, Mr. Minister, that you are saying that the survey is not credible, not valid? Is that what you are saying?

Mr. Cowley: — I think probably the Attorney General has a – I think perhaps it is better to be judged by the remarks of the Hon. Member for Thunder Creek (Mr. Thatcher) who I think perhaps put the public's opinion better than I could. I wouldn't want to suggest to the Member for Regina Lakeview that I am a competent surveyor and could tell you whether or not any particular survey was done with a random sample, whether or not it was accurate within plus or minus X per cent, I would suggest that I am sceptical of surveys carried out by political parties, be they ours or yours and published during elections. I am also sceptical of surveys being carried out by special interest groups during the times when they are involved in a public debate and published during that debate.

Mr. Malone: — One final supplementary question then, Mr. Speaker. In view of the fact that this survey of approximately 1,400 people is almost exactly the same in results as the survey conducted in the city of Saskatoon, and in view of the fact that it agrees with the figures the Premier gave over the Christmas holidays as to approximately 50 per cent of the people being opposed, would the Minister tell me just what it is going to take for this Government to reassess the situation?

Some Hon. Members: — Hear, hear!

Mr. Malone: — And just what it will take to have you withdraw? Will you conduct a plebiscite to see what the people of Saskatchewan want?

Mr. Speaker: — I think the Member is not putting a supplementary. Supplementary is for clarification of the answer given and I didn't detect that that was a supplementary. If the Minister deems it to be a supplementary he may respond, but I doubt it is.

Mr. Cowley: — Mr. Speaker, I really do think I should respond. I think the Member, as the Members opposite often do, only quoted half the Premier's remarks and I believe he said that half was opposed, and the Premier had added, half were in favour, 50-50. That's not what the survey shows. I want to say to the Member opposite that frankly I don't believe in democracy by plebiscite. I don't believe in it at the federal level and I don't believe in it at the provincial level. The federal Liberal Government was elected fighting wage and price controls and yet a little over a year later, I say to the Hon. Member for Lakeview, they introduced a proposal which brought those in. Now I don't agree with that particular proposal but I am not calling for a plebiscite by the Federal Government. I will have my chance as will the rest of the citizens in this country, in 1978 or 1979, to let Mr. Trudeau and his supporters in the House of Commons know what we think of them. And that's the way I believe that governments should be carried out. I want to say as I said yesterday, in 1962 it is quite possible that if we had had a plebiscite on medicare we would have lost it in this province and we would have never had a medical care plan in this province or in this country.

Some Hon. Members: — Hear, hear!

Mr. Cowley: — I want to say, Mr. Speaker, that I can't think of a better reason than that example not to, not to advocate government by plebiscite.

Some Hon. Members: — Hear, hear!

YOUNG VOYAGEUR PROGRAM

Mr. A.N. McMillan (Kindersley): — Mr. Speaker, I should like to direct a question to the Minister of Education (Mr. Tchorzewski). I posed the question some time ago to the Minister of Municipal Affairs (Mr. MacMurchy) in the absence of the Minister of Education and my question at

that time was, if the Provincial Government intends to take over that part of the Young Voyageur Program that was the federal share. The Minister of Municipal Affairs took it as notice and came back into the House sometime later and he never answered the question at all. I should like to ask you as the Minister of Education in Saskatchewan if your Government is prepared to pick up the federal financial share of the Young Voyageur Program in order that this most worthy program may be continued?

Hon. E. Tchorzewski (Minister of Education): — Mr. Speaker, if the Member thinks it is a most worthy program, and I agree that it is, and I would certainly invite the Member to join me in making representations to the Federal Government and urge them not to cancel the program as they have without ever notifying us.

Some Hon. Members: — Hear, hear!

Mr. Tchorzewski: — Although, Mr. Speaker, there was a full and firm and solid commitment in the month of October from federal officials who met with provincial officials that the Young Voyageur Program would be in place, they came back unexpectedly and unilaterally cancelled the program. I have written to the Federal Minister stating our point of view and urging there be a reconsideration several weeks ago, a letter to which I have not yet received a reply. We will continue to urge the Federal Government to take a look at it and see if they can reinstitute a program which is certainly very valuable and worthwhile across this country and affects some 460 Saskatchewan students this year. Now is the Member, Mr. Speaker, also suggesting that although the Federal Government cut the Young Voyageur Program as an anti-inflationary move that the province should reinstitute the federal share and continue that inflationary spiral?

Mr. McMillan: — Mr. Speaker, I would perhaps have to redirect my question in way of supplementary because that is the second time for sure now that I haven't received an answer. If you find that the Federal Government is unresponsive to your requests and that debate will take place in the House of Commons and not here, are you prepared as a Provincial Government to step in and implement the share that the Federal Government carried so that this program may be carried on?

Mr. Tchorzewski: — Mr. Speaker, at this point in time we are not prepared to do that because we are negotiating with the Federal Government. Is the Member also suggesting that we should reinstitute the Opportunities for Youth Program that the Federal Government also cut. Just because the Federal Government cuts programs does not make it incumbent upon the provinces to pick up every program that the Federal Government, in their sometimes irresponsible ways, cut.

Mr. McMillan: — In way of supplementary, Mr. Speaker, I would ask again if in fact you find your negotiations do not work, are you prepared to at least consider implementing a program that would supplement the Young Voyageur Program?

Some Hon. Members: — Hear, hear!

Mr. Tchorzewski: — Mr. Speaker, that would be an unusual way to negotiate with anybody. If the province could make a decision on this one as the Member requests, then it would certainly be announced in due course.

COST OF FOOD BASKET ADS

Mr. G.H. Penner (Saskatoon Eastview): — Mr. Speaker, I wonder if I could direct a question to the Minister of Consumer Affairs. What is the cost of the food basket ads that are running in the dailies on a weekly basis?

Hon. N. Shillington (Minister of Consumer Affairs): — I cannot give you the cost of what the Star-Phoenix and the Leader-Post charge. I can give you the figures in round terms, the entire program costs us $200,000, and the cost per week of the whole affair is about $1,200 per week.

Mr. Penner: — I wonder, Mr. Speaker, if the Minister, since the program is a farce, if the Minister will consider cutting the program?

Mr. Shillington: — Mr. Speaker, I think I can say with some degree of confidence that the program is not a farce. It has worked basically as it was intended to work. I know it has been subjected to a good deal of criticism in the Star-Phoenix and the Leader-Post editorials which seem to be some sort of gospel to the Members opposite, but the evidence we have indicates that the program is working as it was intended to. It has been criticized in part because of the small differential between the stores. The high and the low, there isn't a great deal of difference between the highest store and the lowest store. What that has established, and that's worth establishing, is that the food industry is reasonably competitive. One of the things we have found from the survey is that the food industry is reasonably competitive but nevertheless there does exist a difference between the various stores. We have now some surveys going on to indicate the extent to which consumers have used the survey and changed from one store to another, but I can tell you that informally the store manager who have the lowest price have told us that their volume has increased dramatically since the survey started. And, of course, correspondingly, some of those who were on the low end of the scale have been complaining about the program. But I think the indication we have is that consumers are reading it and that it is working, they are changing stores.

Mr. Penner: — I submit to you, Mr. Minister, that the wise consumer doesn't need those ads to tell her or to tell him, and I would like to ask why since store managers are finding their ratings changing, one week maybe they are tenth and the next week maybe they are second, but are not doing anything to change their prices at all, why you say that it is a worthwhile program to continue? I maintain it is a farce.

Some Hon. Members: — Hear, hear!

Mr. Penner: — All you have to do, Mr. Speaker, is ask the managers of the stores whether they are changing their prices and they are not.

Mr. Shillington: — Obviously, Mr. Speaker, the Hon. Member for Saskatoon does not read those ads as closely as the average consumer does, because if you read the ads it is true that your weekly ratings may bounce around from one week to the next. But on the far right hand side there is a four-week average and there is a very consistent trend among the stores. Those who are at the top of the list are normally at the top of the list and there is a consistent discernible trend that consumers are following. The Hon. Member for Saskatoon may not read those ads carefully but it seems the consumers are.

ANNOUNCEMENT

SEDCO TO ESTABLISH BRANCH OFFICE IN SASKATOON

Hon. J.R. Messer: — Mr. Speaker, before the Orders of the Day I should like to inform the House that the Saskatchewan Economic Development Corporation (SEDCO) will establish a branch office in Saskatoon effective February 16th. Mr. Speaker, the Saskatoon office will initially handle only business accounts and inquiries in Saskatoon. However, in the long term it is expected to handle all accounts in the northern half of the province. The volume of business SEDCO does in the northern half of the province we believe justifies the decentralization of services in order to be more accessible to those businessmen who may need them.

Since January, 1973, SEDCO has approved 80 loans for a total value of more than $15.5 million in the city of Saskatoon alone. SEDCO also has 57 loans outstanding in Saskatoon for a value of $11.9 million. I might say also, Mr. Speaker, that SEDCO has also been active in the area of industrial site development and the Saskatoon office will increase this activity. To December, 1975, SEDCO has acquired 169,000 square feet of building space at a value of $2,700,000 in which seven client businesses now presently rent space.

The reason for opening an office Saskatoon is two-fold. First, we hope to generate more economic activity in growth in the northern half of the province by our presence in Saskatoon. Second, SEDCO will also be more accessible to existing clients and, therefore, in a better position to monitor their progress and determine and detect and assist them in problems at an early stage.

Mr. Speaker, I think this is just another further example of the initiative of the Government in decentralizing its activities in Saskatchewan.

Some Hon. Members: — Hear, hear!

Mr. D.G. Steuart (Leader of the Opposition): — Mr. Speaker, just in

replying briefly if I may to the announcement. Somebody mentioned this food basket was a farce, this is even a bigger farce. Fifty-seven loans in Saskatoon, a good credit union could handle 57 loans on any half busy morning of the week. This is another example of the waste and extravagance of the Government opposite. A million and a half dollars to put a branch of SEDCO in the northern half of the province. Totally useless, totally unnecessary but an example of the Government finding any way under the sun to hire more people, bring more people under control and waste more of the taxpayers' money. I say it is time there was an exposé of SEDCO. I think if the truth were told, under the administration of the Government opposite, SEDCO has wasted millions of dollars of the taxpayers' money. They refuse to give us answers. I say that if an investigation was carried out, as has been asked in this House, they wouldn't be opening any branches in Saskatoon, they might even be closing up the main office here in Regina. SEDCO has been and, I say, is a disgrace under the Government opposite and this is another example of waste and extravagance on the part of the Government opposite. I think it is a disgrace.

Some Hon. Members: — Hear, hear!

SUMMER GAMES TO BE HELD IN SWIFT CURRENT

Mr. D.M. Ham (Swift Current): — Mr. Speaker, if I could ask leave of the Assembly, for something quite pleasant and if I could bring to your attention and to the attention of the Members of the Assembly, to the flag displayed upon my desk which represents the Saskatchewan Summer Games, which I am proud to say are being held in Swift Current this coming summer.

I also have in my custody a number of coins, $1 souvenir coins that I am expecting all Members of the Assembly and the media and the members who are employed in the Assembly to purchase from me. I also have at my disposal silver and gold coins, the gold coins sell for a measly $300 and there is a note on my letter from the chairman of the Summer Games and they are expecting the Premier to buy a $300 gold coin.

Mr. Tchorzewski: — Mr. Speaker, may I say a word. I want to join with the Member for Swift Current (Mr. Ham) congratulating the city of Swift Current on the tremendous job that the committee, the city and the people of Swift Current are doing in organizing for the Saskatchewan Summer Games which will be held in August of this year. I was over in Swift Current several days ago to present $37,000 which is part of the $100,000 contribution that the province makes to the games. I know with the co-operation that the Member is providing with the flag, I was hoping he would give me that coin free, but I guess I'll have to buy it, that the games will be a tremendous success, as other games have been in the true tradition of Saskatchewan.

Some Hon. Members: — Hear, hear!

QUESTIONS

WAGE OFFER TO EMPLOYEES OF SASK POWER

Mr. S.J. Cameron (Regina South): — Mr. Speaker, before the Orders of the Day I think

we are entitled to one additional question which wasn't asked.

I would ask of the Minister in charge of the Saskatchewan Power Corporation if he would now indicate to us what was the wage offer made to the power corporation employees which over the weekend they rejected?

Hon. J.R. Messer (Minister of Industry & Commerce): — Mr. Speaker, I think that Members of the power corporation, at least the management, have indicated that that would not be in the best interest of the corporation or the people of Saskatchewan. The offer has been conveyed to the employees that fall within the scope of the OCAW. They have not chosen to make that offer public information at this point in time. I think that it would be less than wise for the Government or for the Saskatchewan Power Corporation to do that at this time.

Mr. Cameron: — A supplementary, Mr. Speaker, I wonder when we might be told in the House what the rejected offer and what the new offer is likely to be? May I remind you that the Minister of Finance (Mr. Smishek) indicated to us some days ago in reply to a similar question that the information would be made available once the matter was voted. And while it was being voted on he wouldn't give us the information, we understood that. The vote having been taken and rejected, I think we are entitled now to know what the offer was.

Mr. Messer: — Mr. Speaker, I am still told that there is a possibility of some meetings continuing, I believe I am correct that there is a meeting now taking place this morning, reviewing the position of the Saskatchewan Power Corporation and also the position that has obviously been taken by the OCAW union membership and it may well be that there is still an opportunity to have the offer that was advanced by the management or SPC reconsidered. Mr. Stan Williams, from the Department of Labour, I am sure you are aware, has been meeting with the parties and I think that it is yet still premature to convey to the general public what that offer was and what then the position of the Sask Power Corporation is going to be.

I am sure the Member will appreciate the fact that if we are to announce what our offer was, we should either be in a position to say that we are not going any further or that we are going to reconsider or resubmit some other offer and we are not yet at that position.

Mr. Cameron: — A further supplementary. The logic of the thing escapes me, Mr. Speaker. An offer that was rejected is known to the employees and known to the corporation, I can't see any prejudice in letting it be known to Members of the Legislature. But be that as it may, may I ask you this: — the increase in wages that you anticipate, both under the offer that was rejected and the offer you are going to have to make likely to get it accepted, is it conceivable that the new wage contract could result in further increases in power rates?

Mr. Messer: — Yes, I suppose that could be conceivable. I think

that any increase in costs of the Saskatchewan Power Corporation operations could be conceived to be passed on to the consumers of that power. I think that it is too early to say whether or not that would be the situation. One would have to relate what the total costs are going to be. We are going to have a final agreement before we can undertake to do that in relation to what position that leaves the profits of the Saskatchewan Power Corporation in.

ANNOUNCEMENT

INDICATIONS OF UNIVERSITY OF SASKATCHEWAN ELECTION OF YOUTHS

Mr. R. Katzman (Rosthern): — Mr. Speaker, I beg leave of the Assembly to make an announcement if I may. I am pleased to announce to this Assembly a news item of great importance to all Members. Historically the results of the University of Saskatchewan election of youths is a reliable indicator for the next Saskatchewan election. I am pleased to announce that the PCs now form the Government at the university.

Some Hon. Members: — Hear, hear!

ADJOURNED DEBATES

RESOLUTIONS

RESOLUTION NO. 27 — REPEAL OF GIFT TAX ACT, 1972 AND SUCCESSION DUTY ACT, 1972

The Assembly resumed the adjourned debate on the proposed resolution by Mr. D. Steuart (Leader of the Opposition):

> That this Assembly requests the Government of Saskatchewan to immediately introduce legislation to repeal The Gift Tax Act, 1972 and The Succession Duty Act, 1972.

Hon. W.E. Smishek (Minister of Finance): — Mr. Speaker, I am pleased that the Leader of the Opposition introduced Resolution No. 27, dealing with succession duty and gift tax. I am pleased, not because I agree with the resolution, indeed, I do not. But I am pleased because it gives me an opportunity to demonstrate what the official Opposition in the Liberal Party in Saskatchewan actually represent.

Mr. Speaker, I should like to ask the Leader of the Opposition whether before he introduced the resolution he took the bother to explain its implication to the average wage earner of Saskatchewan and whether he got his or her approval. Or whether he took the trouble to check with the wage earner who is supporting his or her family on minimum wages and who is in receipt of Saskatchewan Family Income Supplement introduced by this Government. Mr. Speaker, I ask him did he test this resolution on the senior citizens who have to eke out a living on OAS and GIS payments, now supplemented by the Saskatchewan Income Plan. Mr. Speaker, did he check it out with the Metis or Indian citizens who make up some 10 per cent of Saskatchewan population. I ask him what was their reaction? I wonder if they gave him a sign of approval. Mr. Speaker, I doubt whether they did. Likely not, Mr. Speaker.

Yet from time to time during the last 44 days of proceedings in this House, the Liberals have said that more ought to be done for these people. They have introduced resolutions to provide more help to farmers, they have asked for more money for municipalities; more money to be spent on roads; additional Level IV beds they called for that should be provided. They have asked for further assistance for special care homes. More grants for education. More money for hospital care. They proposed resolutions dealing with expanded recreation programs. New housing programs. The list is almost endless, Mr. Speaker.

At the same time they have called on the Government to restrain spending. At no time have they proposed what new taxes should be levied or what taxes should be raised to finance their proposals. And now, Mr. Speaker, they propose the repeal of The Succession Duty and The Gift Tax Act, the two of few taxes that are based and are raised on ability to pay.

Mr. Speaker, if I am to read the Liberal position correctly based on their past record, it would likely be like this. The Liberals in order to raise money for the programs that they are advocating would probably reintroduce the hospital-medical care deterrent fees, would probably establish the hospital and medical care premium tax. Mr. Speaker, they would probably bring back the charges on the estates of the mentally ill, who have at any time occupied an institutional bed. They would probably re-impose the special tax levy on small hospital districts. They would even probably re-establish the tax on the kids' hotdogs. In order to finance their programs they would again tax the sick, tax the old, tax the young, tax the poor, so they could eliminate the taxes on the rich, those who are able to pay. That is the Liberal philosophy, that is the interest group that they represent, Mr. Speaker.

This resolution gives the Members of this House insight into the type of person that the official Opposition really wants to appeal to.

Mr. Speaker: — Order. I wonder if the Members could give a little more attention to what is going on in the way of the speech . . . Order! I guess I am justified in being on my feet since the Members are interrupting me when I am on my feet, talking to them about the decorum of the House. I wonder if we could just tone it down a little and give the person who is speaking a chance. Other Members will have an opportunity to speak on this resolution if they so see fit.

Mr. Smishek: — Mr. Speaker, I am not really bothered by the Members opposite, getting a reaction from them . . . you know the truth hurts. This is why we get the reaction.

Mr. Speaker, as I was saying it is logical to assume that those individuals who would benefit from the removal of these taxes are representative of the groups that form and basic constituents of the official Opposition. Mr. Speaker, who would benefit from the repeal of these laws? Basically they are those people who receive incomes or as heirs to the estates of the rich individuals. The Government of Saskatchewan took over the administration of The Succession Duty Act as of January 1st, 1975, when the Federal Government abdicated its responsibility to provide an equitable progressive tax for all Canadians.

Mr. Speaker, on November 30th, of last year, 4,300 succession duty returns were processed declaring total net assets of almost $188 million. Of these 3,400 estates, only 118 or 2.7 per cent were assessed any succession duty but dutiable estates accounted for 15.2 per cent of all the wealth.

Mr. Speaker, now we know whom the Opposition represents. They are the privileged few who represent less than 3 per cent of the total number, but control more than 13 per cent of the wealth. Furthermore, the burden of this tax does not fall on the individual who creates this wealth but rather the taxes paid only on those who benefit from the transfer of the wealth. At what rate did the Government of Saskatchewan really tax these privileged few who had an estate or total estates of $30 million. The average rate was only 12.7 per cent, not a high rate of taxation.

The Member for Prince Albert-Duck Lake (Mr. Steuart) when moving Resolution No. 27, claimed that capital gains taxation was intended to replace taxes on wealth in the Federal Government taxation reform package. Even the Federal Government admits that the capital gains tax is a tax on income, not a tax on wealth. In fact, it is a tax on only the increase or the appreciated value of capital assets. It does not tax the basic stock of wealth at all, Mr. Speaker.

The Leader of the official Opposition also stated that the revenue raised by the succession duty is too small to worry about. His feelings are clear when he states, and let me quote:

> Any tax which collects relatively so little, I don’t think is worthwhile.

This is taken from his speech made the other day in the House.

Does this mean that he thinks the Government should do away with such taxes as the fire prevention tax, the motor vehicle insurance premium tax, the pari-mutuel tax, the tobacco tax or the insurance premium tax or the tax that the regional health board levy. And for example, the hospital revenue tax which their government introduced. Mr. Speaker, all of these taxes and there are more contribute about the same or less revenues to the province as succession duties and The Gift Tax Act.

It seems to me it matters very little whether a dollar of tax revenue is raised by 25 taxes of four cents each or four taxes at 25 cents each. The amount of money collected is the same, but specific taxes, even if the revenue is small, allow the governments to design the most progressive tax system possible. Revenues can and ought to be collected from those most able to pay, those with large incomes and substantial wealth that they hold. This is how it ought to be, Mr. Speaker.

All of us contribute to the maintenance of social, economic and judicial framework within which people can make income and accumulate wealth. It stands to reason that those who benefit most from the infrastructure we all contribute to should pay a higher share of the tax and a higher share of the cost.

The mover of this resolution claimed that success duties force people to move out of Saskatchewan. But as usual he makes statements against his own argument, Mr. Speaker, when he says:

Most people with productive careers who have earned and have saved a great deal of money have retired and move to a less vigorous climate.

These are the words of the Leader of the Opposition. He is right in this latter statement. People with wealth do retire to locations outside of Saskatchewan in a warmer climate. But where do they go, Mr. Speaker? Well, they retire mainly to the West Coast, some of them in the Niagara Peninsula, a few move south of the border, but both Ontario and British Columbia have always had and continue to have those succession duties and gift taxes. How can Saskatchewan's imposition of succession duties force people to move to other jurisdictions which have very similar taxes?

Mr. Speaker, this is an example of another of the Opposition's empty arguments. The Member for Prince Albert-Duck Lake stated that succession duties forced the heirs of small businessmen and small farmers to sell assets to pay the tax. He should read the legislation much closer than he has. To start with the maximum value of assets that can be transferred without payment of duty was raised by our Government last year by 100 per cent from $250,000 to $500,000 and wealth of this size can hardly qualify anyone as small businessmen or a small farmer, Mr. Speaker.

Also the legislation provides that any duty assessed can be paid over a period of six years. It doesn't have to be paid in the same year that the inheritance took place. This provision was included in the legislation specifically so that heirs of estates would not have to sell capital assets to pay the duty, Mr. Speaker.

The Leader of the Opposition urged the Government to take a new look at these taxes. As I pointed out earlier, what did we find? We find that the succession duties were paid by the heirs of the richest, 2.7 per cent of the population. If these people had been average they would have left assets of about $5 million, but they were not average citizens. They had about six times the amount or about $30 million and the average tax rate was only 12.7 per cent. What would the tax rate have been if the Federal Liberal Government had the courage to implement the Carter Royal Commission recommendation of taxing all gifts and inheritance at the normal income tax rate. Mr. Speaker, this would have been much higher, a much higher rate than we are collecting.

Now, Mr. Speaker, I recall when this legislation was first introduced the Leader of the Opposition claiming that the administrative requirements of collecting succession duties would be so large that the net revenue from the tax would be next to nothing. Mr. Speaker, I am pleased to say that he is wrong again, as usual. Permit me to let him in on a secret. We estimate that the direct administrative cost of the succession duty and gift tax collections will not exceed much over 2.3 per cent of the revenues collected this year. The Federal Government charged the provinces when they collected this tax, a 3 per cent fee for the collecting of this revenue and they benefited greatly from the economies of scale in a nation-wide operation.

Now, Mr. Speaker, I must say that the comments from the Member for Regina South (Mr. Cameron) who seconded this resolution made a little more sense than the often repeated

doggerel we hear from time to time from the Leader of the Opposition.

The seconder of the resolution appears to have accepted the desirability of having succession duties and gift taxes since he did not ask for the repeal of this legislation. Does this mean that there is a Member of the Opposition who is in favour of this progressive system of taxation? I hope there is. I hope, Mr. Speaker, that it indicates that some of them may finally be learning that the people of this province really accept a system of progressive taxation.

The Member for Regina South requested that some changes be made in the exemption structure of The Gift Tax Act to alleviate discrimination against certain groups. My colleague, the Minister of Health (Mr. Robbins) when speaking to this resolution noted that all taxes are discriminatory. The Education and Health Tax discriminates among those who buy taxable goods. The Gasoline tax discriminates against those who drive vehicles and even Income Tax discriminates against those who earn incomes, however, the Member did raise two significant points. He asks that The Gift Tax Act be amended to exempt from tax all inter-spousal transfers of property. As the Leader of the official Opposition pointed out that the purpose of The Gift Tax Act is to protect the revenues of the succession duty to ensure that wealthy owners do not give away all their assets in order to escape duties.

All Members should be aware that our Government acted in 1975 to remove tax burdens on inter-spousal transfers of wealth by increasing the special spouses' exemption from $50,000 to $250,000. Now assets up to $500,000 can be transferred between spouses without any succession duty liabilities.

Mr. Speaker, I should like to point out that the Government continually reviews its taxation laws to attempt to make them as fair and equitable as possible within the framework of the progressive system. As the Attorney General pointed out, the Law Reform Commission is also studying the whole area of inter-spousal transfers of wealth.

The second worthwhile suggestion made by the Member for Regina South was that the once-in-a-lifetime gift tax exemption be extended to small businessmen. The current provisions extend the exemptions to the transfer of farm land to children and principal residence to spouses.

Some Members may recall that our Government committed itself to investigate this proposal during the debate on the amendments to increase succession duties exemptions last year. Mr. Speaker, as the session goes on the intentions of the Government in this respect will become known.

Mr. Speaker, our Government believes that a tax on wealth transfer is a fair tax. As the former Minister of Finance noted in 1975 during the budget address, "Succession duties in gift taxes are a logical part of any progressive tax system." Mr. Speaker, the facts that I have cited prove how logical and progressive these taxes on wealth are. More than 97 per cent of the estates have no duty assessed on them. No duty was paid by the average citizen of Saskatchewan, the elderly, the disadvantaged, the workers, the average citizens. Now, Mr. Speaker, these are believed the important things to note in this

resolution and, Mr. Speaker, I would now like to move, seconded by the Hon. Mr. Romanow, that the words after the word "Assembly" be deleted and that the following be substituted therefore:

> believes in the principle that the taxation system should be based on the ability to pay and has recognized the effect of inflation on asset values by increasing the exemption under The Succession Duty Act and The Gift Tax Act during the last session of this Legislature.

Some Hon. Members: — Hear, hear!

Mr. C.P. MacDonald (Indian Head-Wolseley): — Mr. Speaker, first of all, if you look at this amendment it's in direct contradiction to the Act. How can anybody be asked to support this, that the principle of the taxation system should be based on the ability to pay. One thing that the Minister didn't tell is that this is not a tax on the rich, it's a tax on the recipient. It isn't a tax at all on anybody that's got $1 million. It isn't a tax on anybody that's got a lot of wealth. It's a tax on the person who receives the wealth. That's what it is. For example, if they want to give the MLA for Regina Rosemont, if somebody wants to give him a gift of $20,000 to buy a house for him and his new wife and his new child, who was born yesterday, he's got to pay the tax. It's not a tax on the rich, it's a tax on the recipient.

Mr. Speaker, this particular Bill, this particular policy is nothing more than a revenge tax. I don't think I've ever heard the Minister of Finance ever get on his feet and give such a speech of tripe wondering what the wage earner would say, wondering what the Indians and the Metis would say. What nonsense. It's the man who generates capital, who pays taxes and provides the jobs for the wage earner in this province. It's the man who generates capital and provides jobs, revenue, who pays the taxes to provide for the old age pensioners in this province and that is the very point that the Leader of the Opposition was trying to make in this resolution. It's time we did away with that tax.

I personally know five people in the last year who have sold out their business and moved out of this province and you know who they sold them to – a national or a multinational corporation, and that multinational doesn't pay any succession duties. Only individuals pay succession duties. Only Saskatchewan people pay succession duties.

Mr. Smishek: — What about British Columbia? What about Ontario?

Mr. MacDonald: — I'm talking about Saskatchewan people, I'm talking about the individuals within the boundaries of Saskatchewan. The corporation doesn't pay succession duties. The multinational corporations that you hate so much, they don't pay succession duties. It's only the individual who was born and raised and earned his money in Saskatchewan who pays taxes on it, who, all his life, has contributed to the jobs and the enterprise and the industry of this province, who has generated

capital and jobs that pay those taxes. It's not the multinational corporations that come in here and take the money out of Saskatchewan or take the money down East, they don't pay any gift taxes or succession duties. It's the small Saskatchewan person and you're driving them right out of here. You're driving them right out and you know something – you talk about British Columbia and Ontario. I'll guarantee you that B.C. will not have a succession duty tax for another year. They finally came to their senses and elected a government that recognizes the stupidity of the succession duty and the gift tax.

Then you turn around and you talk about, why, you talk about the Member for Regina South (Mr. Cameron), well you're going to announce it in due course because you know how foolish this tax is. First of all the argument that he made. You passed what you call a Married Woman's Property Act, eh, you tried to tell the people of Saskatchewan and the females in this province that you want husbands to share equally with them, with their wealth, and yet the minute the husband turns around and gives his wife something you turn around and tax it as a gift. How can you do it? It's a direct contradiction. You talk about you may introduce amendments to allow groups to give once-in-a-lifetime gifts like farmers. Once again you recognize the discriminatory nature of this particular tax and how foolish it is. You talk about only 2.7 per cent of estates that are taxable under this Act and that's the tragedy of it. Because those 2.7 very often are the very ones that generate jobs and the capital and makes Saskatchewan the kind of province it is, individual families that have come to the province of Saskatchewan that for years and years and years through a small business and enterprise provided jobs and income and revenue and taxation to the province, paid their corporation tax, paid their income tax, these are the people you are trying to nail and these are the people who leave the province of Saskatchewan.

No, Mr. Speaker, there is no question about it. This resolution of the Leader of the Opposition is a good resolution. There is no question about it. It recognizes that the only thing that this tax is in the province of Saskatchewan is a revenge tax. It's typical of the NDP, they hate the rich, they hate the successful, they hate the businessman, they hate the word profit and this is the way they turn around and try to impose on them.

The other point about it that is really disastrous is that the Federal Government, the reason they dropped succession duties is that they put in what they call, now, a new kind of tax, a capital gains tax and they said it was unfair to charge both the capital gains tax and succession or estate tax, and they felt that a capital gains tax was a much more equitable and reasonable way to tax wealth. So they turned around and they removed the estate tax and succession duties and instead of that instituted the capital gains tax. Now you are piling on top of the capital gains tax the succession duties that really do nothing more than cripple any estate that was to be passed on in order to continue to benefit the province of Saskatchewan and the wage earners who work for that company.

I guarantee that in the last four or five years there have been 30, 40, 50 or 60 Saskatchewan families and individuals who have provided jobs and income for this province who have left this province and moved to Alberta or transferred their wealth

elsewhere and now Saskatchewan has lost them at a time when we need that kind of generation of capital.

Mr. Speaker, I have more to say about this and I beg leave to adjourn the debate.

Debate adjourned.

ADJOURNED DEBATES

MOTIONS FOR RETURNS

RETURN NO. 22

The Assembly resumed the adjourned debate on the proposed motion by Mr. R.A. Larter (Estevan) for Return No. 22 showing:

> The Number of NDP candidates from June 11, 1975 Saskatchewan provincial election that now work for the Saskatchewan Government or a Saskatchewan Crown corporation; (a) their names and positions held; (b) the position advertised; (c) the salary that accompanies each position.

Mr. R.H. Bailey (Rosetown-Elrose): — Mr. Speaker, I don't want to appear unco-operative in this House so I will not take too much time in talking to this motion. I would, however, Mr. Speaker, like to draw the attention of this House to some statements that were made in this House on January 9, statements that were levelled at both the Return No. 21 and Return No. 22 and, Mr. Speaker, in doing so and my not speaking at this time I think I would be doing my caucus and indeed any backbencher in this House an action of disrespect in not speaking. Mr. Speaker, the return that I am referring to now is a return by my colleague from Estevan in which, last November, when the Attorney General referred to item No. 21 and 22 as being literally the same thing.

Now, Mr. Speaker, on January 9 the Hon. Member for Moose Jaw North (Mr. Skoberg), in making reference to the two returns had some very distasteful things to say, some things which embarrassed his own party I'm sure and some things which, of course, were not spoken in respect of the House.

Mr. Speaker, I wan to refer just for a moment to you and to this House some accusations that were levelled at me in sponsoring this return and also on talking on the return by Mr. Larter which I think should be cleared up before this House recesses or prorogues. Mr. Speaker, these returns were put on the Order Paper for a specific purpose and in speaking on January 9, Mr. Speaker, the Hon. Member for Moose Jaw North questions whether I, in fact, was an Hon. Member or not. I should like to say, Mr. Speaker, that had he checked with many people on this side of the House, he perhaps would not have made that statement. It was embarrassing to the Conservative caucus and I know it was embarrassing to others when he stated that the Members on this side of the House and in particularly me . . .

Mr. Speaker: — Order! I remind the Hon. Member that from my record on Return No. 22 the Member for Moose Jaw has not spoken and the Member must confine his remarks to the return that is under discussion.

Mr. Bailey: — Thank you, Mr. Speaker. I wanted to point out to you, Mr. Speaker, that they had in fact, by the reference made by the Attorney General that these resolutions were basically the same that one could speak concurrently, however, I shall take your advice and deal strictly with this return.

Mr. Speaker, I want to say this – that the Return No. 22 is a return which I think should be answered by the Government. And today I noticed for the first time that a return was finally passed in this House without the Government going through it and amending it to pat themselves on the back.

We, in the Conservative caucus do not believe that we are, as individuals, infallible, however Members on the other side of the House in dealing with returns believe actually that they go back to the time of James I and that they are in fact ruling by divine right. They make no mistakes; they are infallible; they never have made any mistakes. But in their attempt to justify this, they do, in fact, make a mockery out of returns coming from this side of the House.

Mr. Speaker, I wish at this time to adjourn debate.

Debate adjourned.

ADJOURNED DEBATES

RESOLUTIONS

RESOLUTION NO. 38 – PROVIDE ADDITIONAL FUNDS TO IMPROVE RECREATIONAL FACILITIES IN RURAL SASKATCHEWAN

The Assembly resumed the adjourned debate on the proposed resolution by Miss L.B. Clifford (Wilkie):

> That this Assembly request the Government of Saskatchewan to consider providing additional funds to improve the recreational facilities and opportunities in rural Saskatchewan.

Hon. E. Tchorzewski (Minister of Culture and Youth): — Mr. Speaker, I want to speak to this resolution because I, too, as the Member for Wilkie introduced it, feel that recreational opportunities for all people, and I don’t mean just for older people or younger people or for men or for women, but recreation for all people is very important and a matter which I hope that all Members of this House would have some interest in. I am sure that they do.

I want to say in the beginning that I believe that governments in the past have been, on many occasions, too preoccupied with only promoting those things which I suppose could be defined as being financial and economic and they have viewed, and I think rightly so, as the great promoters of the quantity of life in our affluent and comfortable consumption orientated society.

I am pleased to be able to be associated with a government which has and continues to promote the quantity of life for everyone, but does not stop there. I am even more pleased, Mr. Speaker, that this development is coupled with the goal of developing this province of ours into a home where there is also

a high quality of life for all of our citizens.

Now the Member for Wilkie (Miss Clifford) when she spoke and I wasn't here but I had the opportunity to read the transcript, was asking the Government to consider some new alternatives, and perhaps some new priorities in the area of opportunities in rural Saskatchewan in recreational facilities. Unfortunately, although she said that and I can agree with what she said, she gave no suggestions and really offered no ideas on how that might, in fact, be brought about.

It is interesting though to read the resolution which states:

> That this Assembly requests the Government of Saskatchewan to consider providing additional funds to improve the recreational facilities and opportunities in rural Saskatchewan.

Sure, that is a very noble kind of a proposal and if you read the resolution by itself then it is a fair good resolution if you don't consider anything else. But then when you read the remarks which I indicated earlier I had the opportunity to read of the Member for Wilkie, I note that she said, and I quote:

> I am not saying support this motion because we need more money from the Government, I am just saying that maybe we could use additional help.

Now, I find the argument for the resolution and the resolution itself somewhat contradictory. How can you say in the resolution that there should be more funds provided and in the argument say that we are not asking or should not be asking for more money?

Mr. Speaker, then it sort of leads to the question on what the Member was really saying. I am not being critical because as I initially began in my remarks, I think the sort of intent of the Member is very good and I am sure that her motives are too. The Member in her remarks were not critical of the Government and I will come back to that in a minute or two. I think we obviously have some common desires or common objectives in the field of recreation, but as I said earlier, I wish that she had explained what those alternatives of hers were.

I was interested in reading the comment about the contributions made by some of the potash companies to recreation in certain communities and I was interested in wondering why she would isolate the potash companies, because I know that other companies have done the same.

Mr. MacDonald: — Because they are good corporate citizens.

Mr. Tchorzewski: — I will get to the good corporate citizens part, too, Mr. Member for Indian Head. I know that other corporations have done the same – Sask Forest Products in Hudson Bay has made very important significant contributions to recreation in the community of Hudson Bay, which is a community that I know very well in that I was raised and went to school there. Simpson Timber and MacMillan Bloedel have done the same in the community of Hudson

Bay as well. I know that some of the potash companies in the province, in some of the communities have made some contributions.

My only wish is that they have done this in all communities because I recall an incident this spring, where the potash mine near Colonsay was requested by the community of Colonsay that is proceeding to make plans to build a badly needed rink, but received a letter which I do not have here, but do have in my files in my office, from the company saying that they would not give any assistance at all. So although in some cases what the Member said holds true, it is not certainly general. I wanted to just make that point. I suppose that I make that point for maybe a number of reasons and one in particular because the community of Colonsay happens to be in my constituency and therefore I have a special interest in the affairs of the people of that community.

Mr. Speaker, as I have said the problem with the Member's resolution and the comments that she made on that resolution is thee seems to have been a great deal of inconsistency between the resolution and her remarks. I think there is also an inconsistency between that resolution and the position taken by, not only the Liberal Party opposite, but also the Conservative Party, when they talk about the inflationary situation of this country today. Because we have heard from them, and I don't argue because we have also said the same thing on this side of the House, that we have to be very, very concerned about the inflationary spiral that is all about us at the present time. I have heard speeches on various resolutions and on Bills and Orders of the Day and on Questions, comments made that we have to do all that we can to fight this spiralling inflation and that governments have to take a serious look at their budgets. And we, as the Government, are taking a very serious look that way and I would only ask that we have some assistance from the other side, who from time to time have put resolutions on the Order Paper that I think by now, if you added them all up, would add up to many millions of dollars of increased moneys in the budget of the province of Saskatchewan. So I want to point out that I think that there is some inconsistency there.

You can't say, give more money and then at the same time say, hold back and don't spend any more money. You have to have one thing or the other. I will talk about some of those priorities in a minute. I agree, I don't argue that priorities are important and one should, at all times, think about those priorities and I will be pointing out in a minute or so that this Government has established those priorities in the area of recreation.

I want to take this opportunity to put on record my thanks to the Member for Wilkie (Miss Clifford) for her kind comments about the Department of Culture and Youth. That is why I indicated earlier that I wanted to make it very clear that I didn't think she was being particularly critical and that is good. I think that we need some positive discussion in this House from time to time and that is certainly happening in this resolution.

She indicated that the Department had done a very admirable job and I would agree. I think that it has done that because we did initiate the Department of Culture and Youth to give some priorities in the whole field of recreation, defined in this very broad sense. So there have been some very significant results out of that. But also because we have had some very talented people and some very dedicated people on staff in the Department who have done an outstanding job and, I think, on many

occasions beyond the call of what one could consider normal duty. I think that that has contributed a great deal to the success that the Department has had.

I want to argue though with one comment that was made and that is when the Member for Wilkie said that the Department started in 1965. That is not the case. The Provincial Youth Agency did start in 1965 as Mr. MacDonald will know and began some very worthwhile and interesting programs, but the Department of Culture and Youth, which incorporated the Youth Agency, did not begin until 1972, so that some greater priority was then put on the whole field of recreation, community recreation, the whole area of sports and the whole area of cultural affairs in the province of Saskatchewan.

The Member said that in 1969 there was a budget of $250,000 in the Youth Agency, and there was. And she also said and maybe this is a misquote or misinterpretation on my part, that at the present time there was only a budget of $330,000 in the same area. Let me point out that that is incorrect as well, because in fact in 1971-72 the Youth Agency before it was a Department under the budget of the former government, provided for the whole area of sport organizations, community recreation and regional associations, a total of $334,636, an increase from the 1969 figure of $250,000.

But since then there has been a very dramatic increase in the kind of assistance and programming that has been provided. There has been a dramatic increase in the operating and the program assistance; there has been a dramatic increase in the whole Department of approximately $6 million in the present budget and it is not all meant for community recreation admittedly, but there have also been increases in other areas. I don’t want to isolate the activities of one department because you cannot do that in recreation. There have been dramatic increases in the funding provided to regional parks, in fact the number of regional parks which provide a very significant and very important recreation opportunities for, not only rural residents, small community residents, but the in so-called bigger urban centres who take advantage of them.

And the Winter Works Program, which the Premier pointed out in his remarks in this debate, have made a very significant contribution to the establishment of recreation facilities in practically every community in the province of Saskatchewan in the last several years.

During the last four years the developments in recreation have been, I think, exciting; they have been encouraging and full of action. And assistance to communities to enable them to expand recreational activities to people across the province have also increased dramatically. There has been, as I have pointed out, increased financial assistance; there has been increased program development and it has resulted in a lot of worthwhile things. For example, the number of community recreational boards, a concept started by the former Government, has been increasing substantially. I think that that in itself is very important because it shows once again the nature of the problems of Saskatchewan or the people in their communities who best know the kinds of programs and activities that they need and want, are organizing through recreation boards to plan and run and to operate those recreational opportunities for their citizens. So there has been a greater involvement of people in this field which has proved very beneficial.

I think it is a problem talking this way and I think that we all do, without pointing out something else. Because when we talk about recreation, unfortunately, a lot of people see it only as something for the young people. They see it only as minor hockey and minor baseball and activities in that field, but recreation is a great deal more than that. I am proud that in the last several years our Government has been able to provide opportunities for our senior citizens as well through the encouragement and the financial assistance for the establishment of senior citizen activity centres and also financial assistance through grants from the Department of Social Services for programs to be carried out in and outside of those activity centres for our senior citizens.

We have expanded and broadened out the recreational opportunities for what I called earlier, all of Saskatchewan people. I think, Mr. Speaker, as I said a minute ago, that it is important to keep in mind what recreation is. It is more than a sports program, it is also a physical fitness program, but it is more than a physical fitness program. I think, in my view and in the view of the Government, that you must define recreation in the very broadest sense and you must include within that such things as cultural activity as well. And that is what recreation is. We have stressed this and I think that the results have been very commendable. We have established, through the Community Cultural Activity Grant program new opportunities in all of Saskatchewan communities and, in fact, particularly in rural small communities, opportunities that have not existed to this extent in the past.

There are multicultural support programs in the Department of Culture and Youth, another new program we have created in recognition of the makeup of the people of the province of Saskatchewan and have encouraged that this heritage not only continue but develop and grow. And through the Saskatchewan Arts Board, and I think the Member for Wilkie would be very interested to know that although in 1971 there was $326,000 provided in grants to the Saskatchewan Arts Board and in 1975 there was $718,000 provided, a very significant increase, indeed.

So when you talk about priorities, Mr. Speaker, I think it is clear that the priorities have been there. New programs have been introduced and existing programs have been expanded to promote, develop, and to assist community recreation. I want to spend a minute or two outlining some of them as well.

For example, Mr. Speaker, there has been very significant increase in funding for the recreational boards, so that in 1975 the grants have increased by well over 100 per cent over 1971-72, from $336,000 at that time to a little over $700,000 in the present budget. The Community Capital Fund has been introduced providing $75 per capita for the construction of community facilities in that if the communities so choose that they be recreational facilities. Energy Assistance Grants program of over $100,000 to offset the electrical and heating cost in our rinks and areas throughout the province.

Mr. Speaker, there are other programs that I could mention, but I think those highlight the kinds of priorities that we as a government have established in the field of recreation.

Mr. Speaker, I don’t disagree with the need to continue to develop opportunities for all people of all ages in all of

Saskatchewan. And we will do that as a government and I know and I hope that we shall have the support of the Members opposite and in particular the Member for Wilkie (Miss Clifford) as we do that. I think it is clear, Mr. Speaker, that the record of this Government clearly shows that we have made this field a very important priority. As we do this planning and as we do the program development for future years and in this year we are going also to show economic responsibility, especially at this particular time when all governments at all levels must be doing that.

Now, Mr. Speaker, I think that although the resolution has some good intentions, I think the resolution fails to point out the importance of the priority that has been established by the Government over the last four years and so I want to move an amendment to that resolution. I should like to move, seconded by the Member for Canora (Mr. Matsalla):

> That all the words after the word "Assembly" be deleted and the following substituted therefor:
>
> commends the Government for recognizing recreational needs of Saskatchewan people as a major priority by initiating and developing programs which have provided new and expanded opportunities and facilities in both rural and urban communities.

Hon. A. Matsalla (Minister of Tourism and Renewable Resources): — The amendment put forth by my colleague, the Hon. Minister of Youth and Culture, more clearly defines the real issue for debate in this resolution and I consequently fully support the amendment.

Mr. Speaker, the record of this Government has been quite clear. My colleague has outlined and put forth the program and accomplishments of his Department and Hon. Members cannot help but agree that the Department of Culture and Youth of this Government has an enviable record in developing programs towards providing recreational facilities for the people of this province.

Granted, my Department, the Department of Tourism and Renewable Resources, has a greater single involvement besides youth and culture. The Department of Municipal Affairs, through its Winter Works Program and the Community Capital Fund is also involved in the task of extensively improving recreational opportunity at the provincial level. I am certain the Hon. Minister of Municipal Affairs (Mr. MacMurchy) would like to deal with these programs when he has the opportunity to participate in this debate.

I am sure we all agree that provincial assistance respecting recreational opportunities is a good investment. There are, however, many viewpoints to consider and very careful deliberation must precede any decisions that are made for development of facilities. Mr. Speaker, when this issue comes under debate, by nature, most participants are quick to give such spending an unconditional stamp of approval. On the other hand, as a government, we must ensure that our decisions are prudent, and we must be convinced that the public moneys which are being expended are indeed fulfilling the objectives which have been set out.

Two specific objectives immediately come to mine. Firstly, this Government has consistently recognized the social and economic benefits to be derived by retaining a viable rural Saskatchewan. Provincial assistance to our smaller towns and villages in relationship to parks, curling and skating rinks, recreational centres, are all vital to strengthen the fibre of rural living. Our record is clear in this regard, Mr. Speaker. This Government has provided a great deal of financial assistance, assistance which made it possible to develop facilities and services which otherwise would have been impossible without the help of senior governments.

Secondly, the record of this Government shows clearly that we recognize the presence of more leisure time and because of that we are designing our policies and programs to develop a social attitude directed towards greater public participation in healthy recreational activities. Personal income is increasing, the work week is shorter, and more people are retiring at an earlier age. In view of this, no question, the public is demanding new and more varied recreational facilities.

Mr. Speaker, the original resolution urges the Government to do more to provide recreational opportunities for rural Saskatchewan. It would seem that the only reason for presenting this resolution by the Hon. Member for Wilkie (Miss Clifford) is no other but to leave the impression that this Government is doing nothing or very little in providing recreational opportunities. The amendment moved by my seatmate, the Hon. Minister of Culture and Youth, commends the Government for what has and is being accomplished. Now let us look at the facts.

In connection with outdoor recreational opportunities, the existing opportunities in the province consist of a provincial park system of 17 resort and recreation oriented parks, a system of 88 regional parks, numerous provincial recreational sites and areas, various local parks and urban parks, a national park, and a few park developments on Indian Reserves. Mr. Speaker, it is the Provincial Government which is clearly the main provider of recreational facilities within the province and we have taken the lead in incorporating systematic planning within the province’s recreation system.

About 68 per cent of the provincial population lives within a 50 mile radius of a provincial park and nearly all of the population of Saskatchewan lives within an hour’s drive of a regional park. The commitment of Government, past and present, to do its part in providing these services is very evident. In fact, Saskatchewan boasts the finest park network to be found in any province in the Dominion. Each year, our participation increases. Between 1967-71, the capital budget for recreational facilities alone was $5.1 million and $4.8 million was expended. Between 1971-75, $7.1 million was budgeted and $6.6 was expended. In the last four years there was an increase of almost $2 million spent by this Provincial Government on these recreational facilities. Obviously our commitment and our record cannot be seriously challenged. With respect to our regional park program, the record is equally significant.

As you recall in the late 1950s, the CCF Government of the day commissioned a study, namely the Baker Report on outdoor recreation. One of the main recommendations of that report was to commence a regional park program with a stated objective of assisting in providing an outdoor recreation opportunity to all residents of rural Saskatchewan. The Regional Parks Act was

enacted in 1960 and regulations under the Act were approved. The basic cost share formula, which still exists today, was 60 per cent provincial and 40 per cent municipal.

Like all programs, the regional parks program had modest beginnings with four parks being established in the first fiscal year. Thomson Lake, in the Gravelbourg district, was the first regional park in the province. For any of you who have seen that park in recent years, will surely agree that it is a positive asset to the community. The effort and the interest of local people to bring their park to its present stage of development is to be commended.

Combining local contribution and initiative with provincial dollars and technical assistance has produced positive results to many areas of Saskatchewan. In 1960, four regional parks were established. The provincial contribution was $9,648. Ten years later there were 72 regional parks with the provincial assistance totalling $374,000 and today there are 88 such parks with provincial dollars totalling slightly more than one half million dollars.

In addition to these capital grants, the maintenance grant has shown similar proportionate increase in the past three years. It was this Government which tackled the need for assistance towards park maintenance, and we made significant changes. (1) We amended the regulations to allow for the maintenance grant to apply to day-to-day maintenance, as well as maintenance costs to capital. (2) We allowed these grants to apply to a broader range of facilities in regional parks, to include golf courses in regional parks. (3) We initiated changes in Department policy to include administrative requirements as qualifying for capital and maintenance grants.

Mr. Speaker, we are convinced that the regional park program which was started in 1960 was a good one and still is a viable program which has and will continue to benefit rural Saskatchewan residents.

Mr. Speaker, our initiatives in relationship to our provincial park system is equally significant. Lengthy comments respecting each of these parks would perhaps be somewhat redundant, as we all recognize the fact that Saskatchewan provincial parks are the finest you will find anywhere. Our climate, however, restricts us from providing year round recreational opportunity. There isn’t anything we can do about our climate, but certainly we are doing all we can to design and adopt programs on a seasonal basis.

This Government has shown its commitment to make changes and to offer new avenues of recreational opportunities for all Saskatchewan residents during our four seasons of the year. My Department is directing its attention towards greater opportunities for winter recreation. We have established snowmobile trails in all provincial parks and provided financial assistance in other areas as well. The initiative has not been confined to provincial parks. We established Wascana trails, a scenic and popular snowmobile area northwest of Regina. A similar area was established in the Nesbitt Forest near Prince Albert. We completely redeveloped the lower slopes at White Track and renovated the lower chalet. And I am sure you remember that when we formed the Government, we found this chalet ‘jacked up’ and ready to be moved away.

Forty-five thousand dollars for improving the slope is being spent this year alone at Blackstrap, and this year we are spending in excess of $100,000 at Cypress Hills. Last year we spent $80,000 on downhill and cross-country skiing facilities. We are providing funds to establish cross-country skiing opportunities within all provincial parks, lean-to shelters have been built for skidoo trails at Candle Lake, Moose Mountain and Duck Mountain Provincial Parks, and since 1971 we have kept all roads open to our provincial parks to ensure that Saskatchewan people could enjoy access to their individual or family recreational activities during this time of year.

Our interpretative program is of equal significance. Naturalists are on duty throughout the summer at Duck Mountain, Cypress Hills, Meadow Lake and Saskatchewan Landing Provincial Park as well as at the Condie Nature Refuge. Three historic parks have attendants to help explain displays and the history of the area, and the Museum of Natural History in Regina provides guide services during the summer. In total, 10 historic parks and displays have been established and 170 historic sites have been marked throughout the province with cairns.

Mr. Speaker, much has been accomplished in recent years, the Provincial Government has indeed honoured its commitment to ensure recreational opportunity for Saskatchewan people. I want to say that this Government will continue to improve and add to the fine facilities we already have. Yes, Mr. Speaker, this Government should be commended for its initiative and action in providing recreational opportunities for Saskatchewan people.

Much has been accomplished and more will be done in the future. Our record is clear, as I stated at the outset, we will continue to do our part to ensure that the people of this province have easy access and are encouraged to participate in the available recreational facilities.

I urge all Members of this Assembly to join with me in supporting this amendment and the amended resolution.

Some Hon. Members: — Hear, hear!

Mr. R. Katzman (Rosthern): — Mr. Speaker, I rise on this motion and listened to the amendment put forth by the Minister for Humboldt (Mr. Tchorzewski). I wonder if he is having problems breaking his arms to pat his own back. The original mover of the motion willingly admitted the Department had done some good work and did not condemn the Department in any way. I am shocked and amazed that an amendment of this order should come in later on. We are at a time of inflation and we must watch costs. Therefore, the projects that the two Ministers who just spoke ahead of me were big money spending projects. Big building, big grants and so forth.

Let us look at another area of recreation that is very feasible in the rural area. The area of ball fields, soccer fields and, for example, on a soccer field the total expense other than grass, and the people of the community usually do all the work anyway, is 80 foot of four-by-four, not a very large expense. These are the type of programs in an inflationary year that we must look at, not big rinks and all the rest of this high spending that I hear the Ministers talk about. I think there are many areas, trails, as I said, ball fields, lawn

bowling at a nominal cost where the communities will do a lot of the work and the Department can assist with knowledge on the facilities required and the engineering, not causing high inflation which is a concern that all must concern ourselves with at this time.

Mr. Speaker, I am very annoyed at the amendment and I will be voting against in and in favour of the motion.

Some Hon. Members: — Hear, hear!

Mr. C.P. MacDonald (Indian Head-Wolseley): — Mr. Speaker, I also want to join with my friend, the Member for Rosthern in saying that this is a typical NDP amendment and not to discuss anybody that would read it and listen to the two Cabinet Ministers who have remained silent for three months during the most important debate in the history of Saskatchewan and then stand up for ten minutes and read speeches to pat themselves on the back. I just think it is kind of ridiculous, it's like the Pontificate, they both stood up there and pontificated, as my friend from Elrose said, like the Pope himself. You know the funny part of it is that some of us have been here a long time. The Minister says, why, we have doubled the grants to the Saskatchewan Arts Board. I remember the time when the Saskatchewan Arts Board got $50,000 and Ross Thatcher quadrupled them in one year because there was nothing given to the Saskatchewan Arts Board. I remember in 1964 there wasn't one single program of the NDP for youth in the province, not one single program for recreation. You had completely ignored it. Not one single program, not even in the Department of Education let alone outside the Department of Education. And we had to initiate a youth program.

Then they talk about the budget. All they did for goodness sake was bring in the budget from everybody else and collect them into one department. That's the main initiation. But all I want to do is make one or two comments and suggestions about this particular program. I listened to the Minister talk about the Provincial Government, to quote his words, "provides the majority of recreation facilities in Saskatchewan." I'll tell you, Mr. Minister, there are an awful lot of people who contributed an awful lot of time and energy to build rinks and YMCAs and all the rest of it in Saskatchewan and I am going to tell you the Government hasn't built the majority of recreational facilities. It's been the communities' private citizens who have done that job.

The Minister talks about inflation, what a terrible thing it is for the Member for Wilkie to move this resolution and I agree that this may not be the time to include any new great grant program, but certainly it's the time to consider priorities. I'd like to make a suggestion. Way back in about 1967 there was a centennial grant program. For every dollar of provincial grants it generated $7 of construction. For every $1 of grant it generated $7 of construction, if my memory serves me right and I think it was when my seatmate was the Minister of Finance and he'll agree with that.

Mr. Steuart: — I agree.

Mr. MacDonald: — See, he said he agrees. I'd like to suggest that if the Government does consider getting into something in the way of

recreation facilities because there are numerous communities now finding a great deal of difficulty because of the increased capital costs and the construction costs, equipment, and facility costs that there is one very simple way that they could do it and that is by a straight per capita grant and by doing it on a straight per capita grant for strictly recreation facilities. I'm sure it would have the same kind of impact as the centennial grant and would generate a fantastic amount of construction.

You know the real problem and I'd like to tell this to the Minister, the real problem with the Department of Youth and Culture, the same as it was with the Youth Agency, is that all the money is spent on salaries and expenses and very little of it ever filters down to the community. It's spent on organization of provincial organization of bureaucrats. You look at the operating costs of the Department of Culture and Youth. Very little of it ever filters down into the community and to individuals. That's where the kind of a suggestion of getting into the recreation facilities in future development or expansion of this program is an excellent one. I'd like to commend the Member for Wilkie, she doesn't put any time schedule on it. Certainly we think if you reorganized and cut out some of the wastes and extravagance in other areas, you might find by very little, by very little output on the part of the Provincial Government, you might generate a great deal of construction in recreation facilities which are really sorrily needed in Saskatchewan.

Just look at what the concept of the winter games has done for the province of Saskatchewan in the past few years. With the development of the summer games in Regina last year and the summer games that will be taking place in Swift Current this year, when you drive by and see the mountain at Saskatoon, the speed skating oval, you look down here now and see the swimming pool in the city of Regina. All these were generated, not by straight provincial funds, but contributions of the community, the Federal Government and the province as a whole. Certainly to get a good Olympic style swimming pool, to get skiing facilities around the city of Saskatoon, these are the kind of things that are really sorrily needed in the province of Saskatchewan and will make a real contribution.

Mr. Speaker, I have more to say. I'd like to adjourn the debate.

Debate adjourned.

COMMITTEE OF THE WHOLE

BILL NO. 1 — AN ACT RESPECTING THE DEVELOPMENT OF POTASH RESOURCES IN SASKATCHEWAN

Hon. R. Romanow (Attorney General): — Mr. Chairman, rather than wait for the books, I think that we are on the issue of Section 43 and I don't think I need the book. I should introduce members of the group that are here today, the second shift, Mr. Holtzman, I think I introduced the other day, Mr. Karvonen, we're known him from somewhere before and Mr. Roy Lloyd is sitting right behind me.

Section 43

Mr. E.C. Malone (Regina Lakeview): — Well, when we closed last night I think I was point out to the Attorney General and the Members opposite that this

section is particularly vicious in the Act. It just shows how the Government sets two standards; one for the Government to follow and one for private individuals or companies to follow. The section is unfair, it's vicious, it offends every sense of justice or decency. I don't suppose there is any point in putting an amendment forth to be considered by the Government opposite because they obviously won't accept it. But I want to make it very clear, Mr. Speaker, that this section is unfair. It's unfair because it says the Potash Company of Saskatchewan can select the documentation that they may want to use in an expropriation proceeding and leave other documentation undiscovered or undisclosed if it hurts their case at all. But at the same time it insists that the owners, the potash corporations that are affected must disclose all documents that are relevant to the issue, whether they help those corporations or not. I suggest that that is completely a double standard, it's unfair and unjust.

Now, carrying on from there, Mr. Chairman, I wonder if the Attorney General would tell me how he proposes a potash company or an owner as defined by the Act, is to produce the documents that it no longer has in its possession? This is what this section says, that it must produce such documents.

Mr. Romanow: — Mr. Chairman, I'm sorry I may have not heard the full balance of the question in the light of the confusion, but as I understand what the Member was asking was, what powers or what could be done to compel an owner, say, to the production of documents?

Mr. Malone: — I didn't say that.

Mr. Romanow: — No, okay, then would you rephrase your question.

Mr. Malone: — Section 43(2) says that the owner as defined in the Act, that was the potash companies, has to provide a notice or a list of all documents.

Mr. Chairman: — Order, please. I'm sorry to interrupt you, Mr. Member, but I'd like to draw the attention of the Assembly again that it is very difficult for those who are taking part and participating in this to hear. I'd like to urge the Members to try and keep as quiet as they can and it will expedite the procedures within the House and that is what we are here to do.

Mr. Malone: — I'm sorry, Mr. Chairman, but what I was saying, Mr. Chairman, is that 43(2) says that a potash company must prepare a long list of all documents that are in its possession or have been in its possession at any time that are relevant to the issue of the expropriation. Section 43(3) says, in effect, that the potash company must produce a document, those documents for examination by the Potash Corporation of Saskatchewan. Now I ask the Attorney General how the owner or the potash companies can produce documents that are no longer in their possession?

Mr. Romanow: — Well, I think that certainly will be difficult. If they

don't have the documents in their possession, it will be tough for them to produce them. But, I would submit to the Member that really we are in the same situation here, perhaps not with the same powers of enforcement that would exist in an ordinary court action where there is a notice to produce documents and so forth. I think that the biggest detriment, if I may put it this way, to the owners not producing documents, or for that matter, the corporation not producing documents, is that it must surely prejudice their case and the presentation of the evidence of their case once they ask for the particular to be considered by the arbitration board.

Mr. Malone: — Well, that's not the case. If you continue reading the section you will find that a person can be jailed for not producing a document. Section 43(7), a person can be committed for contempt if he does not produce a document, and I suggest to you that it is quite likely that there are documents relevant to the case that are no longer in the possession of the potash companies, they are forced to give notice that these documents are in existence, it's highly conceivable that they no long can get their hands on those documents, that they might be with the head office of the corporation, they may have been destroyed, there are any number of things that could have happened to those documents, and failure to produce those documents could result in a person being put in jail. Now I ask you, how can a person produce a document, first, if it's no longer in existence, or if it is out of his control? Then he is faced with the problem of being jailed for failure to produce the document.

Mr. Romanow: — Mr. Chairman, the situation is as I have outlined it, mainly that the Act calls for the production of documents that are relevant to the claim, and then under subsection (5), the potash corporation for example might apply to a judge of the Court of Queen's Bench for an order requiring production of a document, or desired copies of it. Now if there is no document available, or it is no longer in the possession of in our hypothetical case, the owner, what happens then? Well, under the application that is being made with respect to this matter the court has to satisfy itself that indeed the owner has taken all the reasonable steps that it could to produce the document in question, the one that is no longer in its possession, and if that is indeed shown, it would be the judgment of my law officers that the jailing sections which subsequently have been, or earlier, have been referred to by the Member, would not apply. So it's conceivable that on some occasion they might apply, given a purposeful wilful attempt to withhold production of certain documents of which they received notice, but assuming bona fides on all sides, and the inability to produce, we don't think that the jail and the contempt provisions would indeed apply.

Mr. Malone: — I'm sorry, but it doesn't say that, Mr. Minister, and Mr. Chairman. It says that if a party fails to produce, and in this case that party must be the potash corporations, that is the owner, the potash corporations carrying on business in this province, it doesn't work the other way, against the Potash Corporation of Saskatchewan. The Act says that if that person doesn't produce a certain document, then the potash corporation can apply to the Court of Queen's Bench for an order. It does

not set out anywhere in the Act what the judge in the Court of Queen's Bench considers, except by the inference, the relevancy, the way the Act is worded the judge in the Court of Queen's Bench has no alternative but to make an order requiring the potash company to produce the document. Now, the alternative then is, if it is not produced, one of two things, or both things can happen. The claim of the potash company could be struck out, that is, the one that's being expropriated, or an officer could go to jail. There's no in-between. There's no discretion in this particular section given to the Queen's Bench judge, that is, he can't say as this is worded, well, the company obviously destroyed the document in error, therefore, they have done everything they can to produce it, and they can't find it so, therefore, I'm not going to make an order. It doesn't say that, it just says that if the document's relevant, it must be produced.

Mr. Romanow: — Mr. Chairman, I think the key here is again an interpretation difference that exists between our side, if I may put it in that sense, and what the Member for Lakeview states. The best advice that we have available to us indicates that indeed, while it is worded in those terms, and while the Member's argument can be advanced, the simple fact of the matter is that proceedings have to be taken, and that there will have to be some form of a hearing and a determination by the judge. Under those circumstances, it's conceivable, given a certain factual situation, that no contempt indeed could be found by the judge in question, so I don't agree with the Member's interpretation of those words.

Mr. Malone: — Would you show me in Section 43, or for that matter anywhere else in the Act, where it gives the judge that discretion. According to 43, the only thing the judge looks at is relevancy, not whether the document is in the possession of the other party, not whether the document is in existence, the only thing he looks at is relevancy. And if it is relevant, he then must make an order saying that the document has to be produced.

Mr. Romanow: — Mr. Chairman, I am asking my people again whether or not there is an additional answer that can be advanced to the Member, and really there can be no additional answer, there has to be in the proceedings an application first before the declaration of the contempt. On that application which is being made, the other party will have that type of a defence available to it, will be there, and will be so saying it. That there is a reason for the documentation not to be around and then of course my arguments or the points that I have made earlier would again come into play, conceivably or presumably reasonable men, acting reasonably, in judicial or semi-judicial proceedings of this nature would accept that explanation and the contempt order would not lie, nor would any of the consequences from it, flow. And that's what we say Section 43 in its totality reads.

Mr. Malone: — Mr. Chairman, Mr. Minister, the clear wording of Section 43(7) says any person who fails to comply with an order of a judge made on an application under subsection (5). Under subsection (5), as I read it, the only thing the judge can look at is relevancy. Any person who fails to comply with an order of a judge made on an application under subsection (5) shall be

deemed guilty of contempt of court. Shall, not may, not considering all the circumstances, shall. Now there may be a discretion in the next part in "proceedings may be taken forthwith to commit him", but at the very least, the person is going to be found guilty of contempt of court. The judge has no alternative but to find him guilty of contempt of court. Now he may not commit him, but surely you are not suggesting that it is proper for him to find him guilty of contempt of court, when it's impossible for the person to comply with the order?

Mr. Romanow: — Mr. Chairman, again I, as so often is the case, my learned friend and I tend to disagree on the interpretations, step-by-step situation. We, let's say for hypothetical example, the potash corporation asks for the production of a document which is relevant to the claim being made. They do so, presumably, voluntarily and the owner says, or an owners says, no, I am not going to produce it, for the reason that it is not in my possession any more, it's out, or wherever it is. The potash corporation isn't satisfied with it. It then moves under subsection (5), the one that the Member refers to, so what happens then, the corporation moves – where? To a judge of the Court of Queen's Bench to apply for an order requiring the party to make production of the document requested, or allows desired copies to be made. Then what happens? Subsection (6) comes into play. The judge may examine the document, or he may look at the purpose of deciding whether the purpose of the person refusing to produce the document is justified in his refusal to produce the document. Now, under your hypothetical case the owner comes in, he says to the judge, look, I can't produce this because it is no longer around. Now what has to happen first, even before the Member's arguments about contempt operate, there has to be an order under (5) or (6) by the judge, having listened to those arguments, saying, nevertheless, I order you to produce those documents, even the non-existent ones. Then it's conceivable that the Member's arguments would apply that there is an automatic basis for the contempt, etc. I don't subscribe to that interpretation, I've given you my reason for it, but leave that aside, it's conceivable that that could happen. But the point that I make, which I have made repeatedly in this particular aspect, is that the protection is afforded there to the parties by virtue of the Queen's Bench judge looking at the document, hearing the parties, to determine whether or not an order for the production of the document should be made in the first place. Presumably, under all reasonable tests of reasonable men and women working, as I say, in semi-judicial proceedings on your hypothetical case, the judge would never grant the order. That would stop any consequential actions with respect to contempt or otherwise, let alone even the business of whether or not we would commit him for the contempt or anybody would move to commit him for the contempt. So I say to the Member that in my judgment, I repeat again, there is an adequate safeguard which is built in and the example the Member gives, I think, would not be caught by this part of the law.

Mr. Malone: — Well, I say to you again that the only power the judge has in dealing with an application of this nature comes to him through this Act. Would you agree with that premise? That he can't look beyond the Act – other rules of common law or other statutes, he has to deal with strictly what is in this

Act. Now, I suggest to you if the judge looks for justification in refusal, the only thing he can look at is whether the document is relevant or not. Because 43(2) says that you have to declare, no – you have to give notice that you have had these documents at one time or another, even if you don't have them now. So the only thing the Act really gives the judge discretion on is to determine relevancy. And if he determines that the document is relevant, there is nothing in the Act that permits the judge to say, well, it's relevant but Kalium or Cominco, or whatever, have destroyed the document in good faith, they kept it for 10 years or whatever, and they let it go. There is nothing in the Act that says the judge can look at that. The only thing he can look at is its relevancy.

Mr. Romanow: — Mr. Chairman, as I say, I don't know if I can add very much more to this, other than to say that we can get too hung up on absolutely every word of every statute, even this one, as important as this statute is. The simple fact is that there still is a discretionary power in the hands of the judge under subsection (5), the application before a judge makes the order, he has certain rights and powers to examine the documentation, and I just simply say to you that supposing under the wildest of hypothetical legal situations a potash company has lost a document which is relevant to the claim, but it has been lost, say in a fire, a legitimate fire, it's been something – its head office was destroyed or something, and some documents have gone under the circumstances, we don't know that. The potash corporation seeks an application under subsection (5) to order the judge the production of the document. Up comes the opposite side and says look, it's relevant, but it's non-existent. Under those circumstances, as I say again, over and over again, the judge would undoubtedly say, no order will be issued for the production of the document. I doubt even if the corporation would proceed with it. It may be relevant, but what is the sense of making a production of a document which does not exist, whether it is lost or out of the possession or the control of the party. If, of course, it is still in existence and somehow in the control, even the corporate control inter-corporate control, then I think the Member raises a good point, a number of consequences can flow from it, because a judge or a corporation might very well take the position that this is an attempt to hide, or whatever you want, with the document, depending on the facts before it. But the point that we are talking about is non-existent documents, and under those points, as I say, the totality of the section, and that is to say sub (5), the discretion which attaches for the judge to determine whether to make the order or not to make the order, would surely say that there is nothing here to make an order about because the thing does not exist, and on the evidence before me I see to be the case.

Mr. Malone: — Take it a step further then. Say that the company just absolutely refuses to produce the document. Take the case of Kalium, where I believe their patent rights, we found out the other day, were owned by their parent corporation. And say the parent corporation just absolutely refused to let those patent documents into the hands of Kalium. Now, what do you do there? Do you try to throw the manager of Kalium in Saskatchewan in jail because his parent corporation won't give him the document? What happens if the manager of Kalium moves, do you then go to the assistant manager? Just how far do you go with this type of thing?

Mr. Romanow: — Again, Mr. Chairman, it is nearly impossible to say with precision, because a number of facts will be involved in this, but the point that I would like to say is that if a company refuses to produce a document which it has in its possession, in its possession, as opposed to say a patent right being in the possession of another company, another entity, another legal entity, with no hold on that vis-a-vis Kalium, your example, and vis-à-vis the parent company, and I'm not sure that that's in law, possession, to that in any event, the judge would have before him the necessary case on behalf of the corporation as to why it wants the documents, the necessary case by the owners of the companies, presumably saying why they cannot or will not produce the document, because it's a legal tie-up or whatever. Now hypothetically, stretching it one point further, what happens if someone just has the document and simply says, look, I'm not going to produce it, to heck with you guys. Then I think that the provisions of the law would come into play, that's precisely the reason why we wrote in the a) you got to get the judge's order first, b) if he refuses to comply with the judge's order then you can commit for contempt, it could work the other way around, against the corporation as well, as this Member will appreciate.

Mr. Malone: — How?

Mr. Romanow: — Well, if an owner, in the list of the documents that the corporation seeks to rely on, makes an application because subsection (5) just simply says, if a party who has been required to produce any documents for inspection, and a party both sides, it can work against, it could come against us, so what I'm saying is that if there is a wilful, purposeful denial on all the facts before it, determined by the judge to be a legitimate denial of this documentation then, yes, I suppose the Member's right, the consequences would flow, and that's precisely why we have these subsections in here, is to try to make sure that that type of a purposeful, wilful denial without a legitimate reason would be effective. On the legitimate reasons, the non-existence of the documents, or perhaps any legal arguments as to where the possession is, the ownership of that patent right is, etc., I think that's another thing that the arbitration board and the judge, in particular, not the arbitration board, I'm sorry, the judge of the Court of Queen's Bench would be able to determine.

Mr. Malone: — Who do you, or how do you define, let me give you the example again of Kalium. Say the local manager, and local executives were instructed to not co-operate in any way whatsoever with the Potash Corporation of Saskatchewan. They are just directed not to give any information whatsoever, turn over any documents, provide nothing. Now whom do you cite for contempt. Do you go to the manager, if not him, whom do you go to?

Mr. Romanow: — Mr. Chairman, again we would have to define with some precision the party or the relevant officer of the party, if you can put it in that sense. We are dealing here with, in all likelihood, a corporate body, with the appropriate officers. I am not prepared to say to the Member whether it would be the mine manager or the comptroller, or whoever the relevant officer is. The facts, and the hearing would determine that. And the action would go. You say, what if the parent company, say in Pittsburg, says to the people here in Saskatchewan, just don't co-operate, don't do anything about it. That again is something that we

would have to play by ear. But I think that the parent company and the people of Saskatchewan would have to be mindful of what could be the reasonable contempt of court proceedings. And while I have had my disputes with the potash companies about failure to produce financial documents and flouting the law in that regard, I don't want to raise that issue again, I would certainly think that any corporation would be mindful of the exposure, the possible exposure that it allows its local employees to be in, taking that attitude. What I'm saying in summary is this, that on balance, when you look at Section 43, a corporate body, be it in Pittsburg, be it in Belle Plaine, or wherever, or in Regina at a law office, has a reasonable ground, through the Queen's Bench, to refuse documents for legitimate reasons. That is a protection of a Queen's Bench Court judge. But it does not have that protection if it seeks to purposefully thwart the processes of the law as set out in Bill 1. There is where I think the balance applies and what happens, I don't know. We'd have to take a look at every case and examine it on its own merit.

Mr. Malone: — What you just said, of course, if you reflect upon it, is that the court won't decide who is to be committed for contempt, the Potash Corporation of Saskatchewan will decide who is going to be committed for contempt. And I suggest that's power that's far too over-reaching, as the potash corporation can come into the Queen's Bench judge and say, Mr. Kelly, the manager of Kalium has said he won't give us these documents. We want him to be committed for contempt. Then the judge has no alternative really, but to commit him, if it turns out that Mr. Kelly has not produced the documents. But, and I suggest that's just completely outrageous and unfair.

Mr. Romanow: — Mr. Chairman, again I want to say, and this is repetitive, but lest there by no misunderstanding on this by Members of the committee, it cannot work, with all due respect, as the Hon. Member suggests, namely for the potash corporation to come in and say that Mr. Kelly won't produce documents, we want a contempt order. For the very reason that I point out in subsections (5) and (6), namely, before you can get a contempt order, you must have a prior order from a Queen's Bench judge. The contempt will only come if the Queen's Bench judge order is not complied with. Accordingly, under your example, we would have to first go to the Queen's Bench judge and say, Mr. Kelly will not produce these documents, will you order him to produce the documents. If the Queen's Bench judge, on the totality evidence says, yes, we will order and so orders, and then the next step follows, then Mr. Kelly, or whoever refuses to produce the documents, in effect refusing a court order, then that is contempt, because a court order, or it might be contempt, because a court order is a court order, or it should be obeyed, whether it's by the Potash Corporation of Saskatchewan or a potash company. So that the contempt would only take place at that second round and I want to stress this point, because the implication left is that simple request for information denied, leaves the power in the hands of the corporation to bring anybody to contempt – that's not right. We have to have that Queen's Bench order first, which, if it is denied or neglected, might lead to the subsequent action of contempt, and leaving this Bill aside, why not? If a Queen's Bench judge has ordered something to be done, in any case, and you flouted that in any civil case, leaving alone Bills 1 and 2, Member from Elrose would be in contempt, I would be in contempt, Member for Lakeview

potentially would be in contempt. So I don't agree with the Member's hypothetical case. I repeat again, there is adequate protection here for all parties.

Mr. Malone: — How do you determine then how the order is to be framed? Again, take the case of Kalium. Do you apply to a judge for an order directing Kalium Chemicals to produce certain documents, or do you apply to a judge saying that the manager, the comptroller, the secretary, etc., must produce the documents? Just how do you do it?

Mr. Romanow: — Well, I think that the actual mechanics of this might vary from company to company. But, in general terms, the Hon. Member, I am sure, would agree with me that we're looking at here the type of normal, personal compliance that would attach to any dealings with a corporation. You are dealing with the officers of the corporation, and with the corporation, of course, itself. Again in your hypothetical case if this happens, namely a parent company from outside the jurisdiction of the province or country, should dictate to its local employees that it must not comply with the judge's order, then I think it must do so mindful of the consequences that that dictum would have on its own employees. In pure law, it would have to follow its normal consequences.

In practice I would suggest to the Member that, indeed, there will be compliance with the spirit of the law, that's where I am sure the situation will work. I think that a parent company in the United States or whatever, will still take the position, look there, we don't want our local people running the risk of thumbing their noses at a Queen's Bench judge and running the risks of whatever that might mean by way of a contempt proceeding. I just can't visualize that. But if it does happen then in pure law there is a potential. As to who actually gets named will have to vary from corporation to corporation depending upon the possession of documents, what documents you want and so forth.

Mr. Malone: — Again, we are going through one of your speeches as to what is likely to happen, not what the Act says. I point that out to you. What you are saying really is that an employee of a local potash company could fully agree with wanting to produce the documents. He may have them in his possession and want to come along and give them to the Potash Corporation of Saskatchewan, but is instructed by his head office or by his superior no matter where he may be, not to do so. But notwithstanding that, you say off to the slammer with you because you failed to produce the documents. That's what the Act says.

Now, I am going to belabour the point, I think it has been made. Earlier in your comments you said that the companies, the owners, could refuse to produce certain documentation if they had proper reasons. Would you tell me what those reasons could be, other than they are not relevant? What reason could a company give for not producing a document if it is relevant?

Mr. Romanow: — I think, Mr. Chairman, one would have to do some thinking about the detailed possibilities of refusing to produce documents. One that comes to my mind, as a possible refusal to produce documents might be privilege, some form of privilege, a document which

is in solicitor-client privilege relationship. I don't know. But that is one which is a distinct possibility. The basic test, of course, is the relevancy of the claim made by the party, that is the key test.

Mr. Malone: — Would you show me in the Act where it says that privileged documents are exempt from being declared?

Mr. Romanow: — Mr. Chairman, surely the Hon. Member is not suggesting that every statute, civil or criminal and I invite him to consider that, every statute talks about privilege as being a ground for exemption and has to be so stated in the Act. Surely not. The Member knows that the law on privilege is probably nowhere stated statutorily. At least I would be surprised if it is in the Criminal Code where people can get hanged theoretically for acts being done. The law on privilege as the Hon. Member, as everybody, will appreciate, is a law which is clearly established and probably nowhere written down statutorily because it is now established over years of case law.

For the Member to say again, as I say, that there has to be this black and white writing flies in the face of any understanding of the law that we have on this thing. I just give you that as an example of privilege, I think is quote obviously a defence.

Mr. Malone: — You told me not less than five minutes ago, the only power that the Court of Queen's Bench had, came to it through this Act. I specifically asked you about common law rules and you said they don't apply, no other statutes apply. There is nothing in this Act that allows somebody to hold back a privileged document! Nothing! The only test is relevancy, it says that very clearly. That is all the court can consider, whether it is relevant.

Mr. Romanow: — Mr. Chairman, I realize the Members have to make their points and who knows the law better than somebody else knows the law. I don't want to get into that. I don't want to get into the situation of whether or not I know the law or he knows the law.

My point is this, that when the question was asked, it had nothing to do about the common law, it had to do with whether or not the powers of the Judge, the contempt powers stem from this section or from this Bill, to which I answer, yes. The question of the application of the common law certainly would apply. For example, is there anything on certiorari in this Bill or not? There is nothing in this Bill that talks about certiorari. To accept the Member's argument because it is silent in the Act a party could not act on a certiorari against the arbitration board which is patently wrong. I suspect that if that board steps out one iota there's nothing in Bill 2 here that will be a certiorari application, will be upheld and the activities of that board will be quashed. That's the same thing with privilege and the same with any of the other common law operations or defences which exist. So, I say to the Member again, I don't want to get into the type of match, you know, that he knows and I don't know and surely he knows that and surely he doesn't know that, because I'm assuming bona fides on all sides.

But I'm reporting to the Members of the House what I believe on the best advice that we have and what I personally believe to be the fact of the case of the law, on the question of privilege.

If you want to rebut I can give you a chance, but I think perhaps if you don't mind, Mr. Member for Lakeview, we'd like to . . . well, maybe we could do it. Do you want to say a word or two, or do you want me to call it 12:30? One minute, go ahead and then we'll call it 12:30.

Mr. Bailey: — Following this, Mr. Chairman, this most recent dialogue, I wonder then if the Minister is prepared to give his definition of a personal property. We find that word recorded in this Act. What is your interpretation relevant to this Act as to what personal property means?

Mr. Romanow: — The Member asked me this question the other day and I gave him an answer and I'm wondering whether or not, this is why I'm asking Mr. Holtzman, whether or not my answer at that time was wrong or misleading. Perhaps the Member did not fully get the import of it. But I'll repeat it again subject to opinions from other lawyers here who I think, not I think, I know, are very knowledgeable in this area.

Personal property is distinct from real property, basically on the division that real property relates to land, direct land, if you will, or land, say buildings that are attached to the land as opposed to personal property which is essentially chattels or things. A car, or a truck or a microphone. This is personal property. This is a chattel. It's an object. It's a thing. That's the basic definition.

Mr. Chairman, may I ask that you call it 12:30 please.

Mr. Chairman: — Order, order! Before we proceed with the Committee of the Whole there are some introductions to be made, so I will ask those Members who are responsible to make this introduction to proceed please.

WELCOME TO LADIES FROM SUMA

Hon. A.E. Blakeney (Premier): — Mr. Chairman, I speak on behalf of myself and on behalf of the Minister of Municipal Affairs, the Hon. Mr. MacMurchy, who is attending the SUMA convention and on his behalf and on my behalf, I introduce to the House the ladies who are sitting in the Speaker's Gallery, who are the wives of delegates to the SUMA convention and on behalf of all Members of the House I express to them a warm welcome and the hope that they will find their short visit with us this afternoon amusing or at least instructive, and that they are enjoying their stay here in Regina.

Hon. Members: — Hear, hear!

Mr. G.H. Penner (Saskatoon Eastview): — Mr. Chairman, I wonder if I might join with the Premier on behalf of the Liberal caucus in welcoming the delegates, or at least the wives of the delegates to the SUMA convention. I

think among the group is my own wife, leading a great contingent from Saskatoon and we wish all of you a very warm stay in the House and as the Premier said, that if you don't find what goes on in here very amusing that at least you'll find it enjoyable.

Hon. Members: — Hear, hear!

Mr. Bailey: — Mr. Chairman, on behalf of the Conservative caucus, we certainly welcome the ladies in the Speaker's Gallery to the House this afternoon. I might tell the ladies that they are the brightest thing that's been in the House for a number of days now and it's a treat to have you here.

Hon. Members: — Hear, hear!

Committee of the Whole continues on Bill 1

Section 43 agreed to.

Section 44 agreed to.

Section 45

Mr. Chairman: — If I might interrupt, we have two amendments that I have to put before you speak, please.

By leave of the House is it agreed that we proceed with the Attorney General's amendment?

This is by the Hon. Mr. Romanow, Section 45 of the printed Bill:

> Amend Section 45 of the printed Bill by striking out subsection (2) and substituting the following therefor:
>
> Subsection (2), subject to this Section, the fair market value of the assets expropriated is the amount that would have been paid for the assets if, at the time of expropriation, the assets had been sold free and clear of all encumbrances, liens, charges, rights, claims or interests whatsoever in whether legal, equitable, real or personal.

Mr. Romanow: — Mr. Chairman the old Section 45 as it's printed in the Bill had the words 'encumbrances, liens or charges'. The new Section 45 in subsection (2) that we are proposing as amendment maintains the identical words except strikes out 'encumbrances, liens or charge' and puts in there the wording 'encumbrances, liens, charges, rights, claims or interests whatsoever, and whether legal, equitable, real or personal'. And that is essentially to make the wording parallel to the other wording in the provisions of the Act when references to liens, charges, etc., are made. So, Mr. Chairman, I think it's just strictly a technical motion and I would urge the House to accept the amendment.

Amendment agreed to.

Mr. R.H. Bailey (Rosetown-Elrose): — Mr. Chairman, as I mentioned yesterday, in discussing

clause by clause in this particular Bill and after the full discussion on Section 43 this morning, and although the proposed House amendments which I had made, seconded by my colleague, Mr. Berntson, from Souris-Estevan here. I heard the Attorney General in answering questions from this side of the House during the past two days make references to it's likely, conceivable, likely possible that such purchase can be made without the use of certain parts of this particular Act and I want to suggest to the Attorney General and to Members of this Assembly what is really happening here is we're putting in some very dangerous legislation which may never be used and as the Attorney General says hopefully will never have to be used and I find it very distasteful as a citizen of this province to see such sections as Section 45 and Section 60, and I just mention that now, Mr. Chairman, at this time in this particular Bill. I have good reasons for saying this, Mr. Chairman, in all probably as the Attorney General has said they hope that they will never have to use certain sections of this Bill. I think that the Government realizes, certainly the Attorney General realizes, that in the negotiations with the mines and it's very obvious they are going to go out and it's going to be a negotiation and they are in fact, going to negotiate with those mines which we put in real simple terms that can be the most accessible or the easiest mine at the present time to negotiate with. Now, I suggest to the Attorney General that by deleting Section 45 from the proposed Bill that they are not really taking away too much of the punch of the Bill because other sections that we have discussed previous to this, certainly gives them the same advantage and if they were to leave this section in particular and the one which I will refer to later – Section 60 from the Bill, it will certainly make it a lot easier for other industry, for other investors coming into the province if such dangerous expropriation legislation is not present before them. If, in fact, you won't need to sue the powers of the Bill or if in fact, in a year's time or even at the fall session of this House, they find it necessary to have these extraordinary powers, I suggest at that time that the Attorney general could well come back to this House and move forward then with the necessary legislation. I would ask Members of this House to very carefully look at Section 45, read it very carefully; I am concerned that the backbenchers in particular on the side opposite have not looked at the Bill and have not really studied Section 45 and for that reason, Mr. Speaker, without going into the reasons of Section 60 which I will be discussing later, I would ask that the Members carefully consider removing Section 45 altogether from the Bill. Now what the proposed House amendment just simply does is the renumbering of the Bill to put them in the proper numerical order. I would ask the Members of the House to seriously consider this amendment to the Bill at this time.

Mr. Romanow: — Mr. Chairman, I'm sure that the Hon. Member won't be the most surprised man in the Legislature if I suggest to him that the Government cannot accept the suggested amendment. Quite obviously Section 45 is one of the most important provisions in the potash Bill 1. Really, if you struck out Section 45, you would in effect basically be striking out the entire Bill because there would be no mechanism as to the evaluation of a mine in the case of a dispute, the case of where owner and corporation of the potash company are not able to arrive at a satisfactory solution. Now, Mr. Chairman, I don't want to make my second reading speech all over again, but I do want to suggest to the Member opposite that in that second reading speech there were indeed

what I think some very good observations made respecting the need for this particular part of the Act. And I won't go into the details of it, but I do want to say that essentially if you don't have something like Section 45 in the Bill then you have to write something specifically into the Bill which arbitrarily sets the value of the mine or the mines that are to be taken. Again, I don't mean this in any political sense but an example is the situation that took place in Newfoundland right now, currently under court litigation. I have a June 12, 1976 Leader-Post article here where the Newfoundland Government expropriated or nationalized mining ore, iron ore and what they did in the valuation of the worth of the taking, what they did there in Newfoundland is they simply said that that is worth $750,000. No arbitration boards, no judges, no exchange of documents, nothing. How I got hold of this article was that somebody said to me, look, did you know there was a court case on this because the people from whom they are taking in Newfoundland, the people from whom they are taking the iron ore is Canadian javelin Limited and two subsidiaries. They have taken the Newfoundland Government to court, saying that the provision in unfair, saying, how can you deal with a situation where you just write in the dollar amount? In fact, they allege in their statements of claim that it isn't worth $750,000 maximum compensation as Premier Moores apparently feels. They say that it's worth something in the neighbourhood of nearly $500 million. Now I don't know. I suppose somewhere in between there it may be, the ultimate figure will come down.

The point that I'm making in as a non-partisan a way as I can, is that Section 45 is indeed a very fair section, because the principles of Section 45 are that when you come to evaluate a mine, the test that you will use is fair market value. I have already said that I think that that will basically be the earnings test, it might not be, but I think it will be. That's a fair test. Section 45 also says that certain tax laws should be presumed to be in place and I think that while one may quarrel about whether or not the reserves tax should or shouldn't be in place, the fact is that section does stabilize the whole Section 45. It exempts the arbitration board from getting into the whole hassle of determining constitutional issues. They way it's written, there are some advantages which are specifically written in for the potash company, if I may but it in that sense.

So, I've talked too long in this area, but I want to emphasize to the Member, the point that Section 45, while capable of criticism and suggestions and perhaps even some areas of lack of clarity because as I've already explained it would be impossible to write anything in that's totally clear, short of putting in a dollar figure. Section 45 on balance is indeed, a very, very fair provision. I think the whole Bill is fair when you get a Queen's Bench judge who has this Section 45 before him, looking at the provisions and determining whether or not how the evaluation of the mine should be conducted.

So, Mr. Chairman, as I say, I don't see how the House could accept the motion by the Member for Elrose because to do so would be to defeat the entire purpose of the Bill, which obviously they may want to do for other reasons, but assuming we've gotten over the principle of it now, would defeat the operative sections of the Bill and in my respectful submission to the Member, it is indeed a fair section, keeping in mind all of the circumstances of the problem that's before us.

WELCOME TO STUDENTS

Hon. N.E. Byers (Kelvington-Wadena): — Mr. Chairman, I beg the indulgence of the House to introduce to the Members of the Assembly, 20 Grade 12 students from the Invermay High School who arrived just a few moments ago and they are seated in the west gallery. Invermay is one of the schools that as a general rule makes an annual visit to this Assembly and on behalf of the members here I want to join in welcoming them today. They have undertaken a very busy day to see a number of sites and events in the city. They will visit the university, RCMP museum and they plan to attend the Globe Theatre production later in the day. On behalf of the Members of the Assembly, I want to join in welcoming you here today and to hope that your short visit to this Assembly will be instructive and informative and your school will continue to make this annual visit to this Assembly.

Hon. Members: — Hear, hear!

Hon. A.S. Matsalla (Canora): — Mr. Chairman, I too want to add words of welcome to the Invermay group. Since Invermay borders my constituency to the west, some of the members of the group do live in the Canora constituency. On behalf of the Members of the House I want to extend a very warm welcome to the group and hope that they have a very interesting and informative day here.

Some Hon. Members: — Hear, hear!

Committee of the Whole continues on Bill 1.

Mr. Merchant: — Mr. Chairman, we intend to support the amendment, not because it's a particularly innovative or clever amendment, but because it tears the guts out of the whole expropriation Bill, fairly obviously. I only wanted, besides saying that, to say to the Minister that he clearly knows that Section 45 isn't a fair section. There is no doubt about that. What it comes down to in a straight political way is that the Government has been afraid to say to the people of Saskatchewan, we want to expropriate the potash companies, based on an 87 per cent tax rate. Because they were afraid to say, we want to expropriate on an 87 per cent tax rate and have earnings based on any 8 per cent tax rate which they could simply have done, to avoid saying that in a political way that would have been obvious to the whole province, we've got page after page of mumbo jumbo which is designed to confuse the way the expropriation rule will apply. It's designed to do that for a political reason. The political reason is that the Government is afraid to have the people of Saskatchewan know that they are not being fair and kind and just, even to the multinational companies that you claim to hate so much. Don't talk to us about what a fair section it is, when the Government talks about a billion dollars for the entire industry, knowing full well that the investment alone, much of which was made in the '60s, comes to something in a billion dollar class.

Section 45 is the guts of the Bill. That's the way that the Government hopes to steal the potash industry. We'd be pleased to see that section deleted. Before I take my place, let me make a simple suggestion to the Hon. Attorney General.

If indeed it was the intention of the Government to pay a fair market value for the assets at the time of expropriation, why is it necessary to go beyond clause 1 of Section 45, which

quite simply says, “the compensation payable for the assets expropriated shall be the amount equal to the fair market value of the assets?” Now if you really intended to pay a fair market value, you would stop there. But instead Section 45 goes on to modify and tries to move away from a fair Bill.

Mr. Romanow: — Mr. Chairman, I suppose the members of the House will forgive me somewhat if I’m, I know this will bring a whole shout of cheers and jeers that they agree with me, but I’m somewhat confused after 45 days or 46 days of debate, because I’m confused when I listen to the position of the Liberal Party. I’m not quite sure whether I’m to be condemned and the Government is to be condemned because we’re going to be bankrupting the province, i.e. paying too much, or whether I am to be condemned and the Government is to be condemned because we’re not paying enough, i.e. we’re stealing the operation. Or would the Liberal Party conclude that we’re doing both? I think that if that was the case, we’d probably be in the situation where we are a little bit of both. I think this is where the difficulty is. Really, the situation is not as the Member says.

Let me come back to the, I think substantive point made by the Member for Wascana. His substantive point is, why is it if we truly intended this to be fair as we say that we intended it to be, why is it that we would have these other subsections in that section which would in effect take away from the fairness? Part of the answer to that is one that is not devious or it’s obvious to people. For example, having stated fair market value the next subsection goes on and simply defines in what we believe is the standard terms of definition of what fair market value really means. Namely, open transaction on the open market between a willing seller and a willing buyer. I suppose we could have left that out, but I think that adds something to the proposition.

Take the next section. This says that the value to the taker is irrelevant in assessing compensation. I suppose we could have left that out, but that merely states the common law as it’s been with respect to expropriation law for many, many years.

The next subsection for example, says that we should disregard evidence of transactions entered into after expropriation. Again I suppose we could have left that out, but that is again stating a common law position with respect to matters of expropriation.

I think the substance really boils down into subsection (5) of the Member’s comments, why do we have it in the light of subsection (5)? As I said in the second reading speech, I repeat again. Failure to have subsection (5) in there, I suggest could work a hardship on the companies. Let me illustrate very generally what I mean by that. Prior to the May 1974 federal budget any amount paid in royalties or taxes by a potash company to the province of Saskatchewan, that amount paid, they could deduct from the federal income tax. In other words, there was compatibility in the federal and provincial income tax laws. Again, I don’t want to get into a political speech because I think that is irrelevant, but the fact is that after the election because Mr. Turner and Mr. Trudeau were defeated on that budget, the Liberal Government was re-elected and they re-implemented that which said, namely, the amounts of royalties and potash reserves tax or what will you, that a potash company pays is no longer

deductible for federal income tax purposes. That had the effect of putting the tax laws out of harmony with each other and it lent some credence, perhaps, to the arguments of the potash companies that double layers of taxation were really making the enterprise not a going concern as far as they were concerned.

Now if you look at subsection (5), all that we are doing in subsection (5) is turning the clock back to the May 1974 provision and we are saying that any figures that you have paid to royalties, etc., laws shall be deemed to be deductible for federal income tax purposes. That has to work to some advantage of the companies because you could deduct and the more the deduction the more the earnings, the more the earnings the more presumably the compensation ultimately to them will be. If you wanted it to be unfair we could have left the taxation law the way it currently is in effect rather than turning it back and then the outcome of the taxation laws would have made it very difficult for the potash companies, indeed.

As I say, it is a question of interpretation with respect to this section. In many ways guided by political ideology I suppose, I am guilty of that as much as any Member is, but I do invite the Members to view the totality of Section 45 in those terms. I think that one will see that on balance it is a pretty fair section for all concerned.

Mr. Bailey: — In response to the Attorney General, in his original response to the Member for Wascana. When I look at this Section 45 it kind of goes against what you have been saying in this House for a number of days now.

The whole idea, say that this section is designed so to protect the Government or protect the potash people or whatever, I want to say this that the example you used, Mr. Attorney General, in the case of Newfoundland, I believe you are talking about two different things here and I don’t think that it should be brought into this discussion at this time.

First of all, the Government of Newfoundland went out and purchased an industry which was defunct, was depleted and way, in fact, not operating. Here is a Bill which is to be used by the Government of Saskatchewan to enter into the ordinary mining and marketing of an industry which is presently going on in Saskatchewan and from which the taxpayers are reaping a benefit. I should have to say that in passing because I think that is a very poor example.

Mr. Chairman, it is very obvious from what I have heard the Attorney General say that they would hope that they would be able to go out and negotiate between government and a company and probably a mine or two will even be purchased without even reference being made to this Act. And that is quite likely to happen. It is quite likely to happen that the Government can, in the next year or so, gout and say purchase three of the mines by mutual agreement, and by Order in Council this can take place. But right now, I think while the Attorney general says this is the whole guts of the Bill and without it we can’t operate, I suggest that there are other sections in the Bill which would give the Government ample power in the expropriation at this particular time without this section.

Section 45 as amended

Mr. Merchant: — Mr. Chairman, the Minister moved directly into Section 45(5) and let me ask a question or two of him in that regard.

I take it that you would initially agree that the taxing situation that is created by 45(5) has never existed. I put it that way; there have been times when the potash industry has paid more tax, there have been times when the potash industry has paid less tax, but there has never been a time when the potash industry has paid the tax upon which you now propose to have the courts decide their value. Quite obviously the value on an earnings test flows in large part from the value that is created by the taxing provisions in Section 45(5) has never existed.

Mr. Romanow: — Mr. Chairman, I am advised by my officials that the Member's assumptions are not correct, not totally correct, basically not correct. They may be correct in one or two small particulars, for example, the depletion allowance provision may not have ever existed as it is worded in the Bill and the Bill says that the depletion cannot be considered. There was an explanation which I gave you on that. We can come back to it if you want. But the fundamental, the question of non-deductibility and the reserve tax, that situation, indeed, did exist.

Mr. Merchant: — If I may go further. My question is, when? Because I don't think you are correct. But the May 6 federal budget brought in non-deductibility. When you say that this mythical taxing situation existed because I am advised that it didn't ever exist.

Mr. Romanow: — Our reserve tax was made effective on June 30, 1974, thereabouts. There was a budget on November 18, 1974 and in between that period the provisions existed.

Mr. Merchant: — Does Section 45(5) include reserve tax? Is the reserve tax included in the tax base that you will assume in order to build the earnings base by which you will compute if your theory comes true, you pray. Does the reserve tax get included in those computations?

Mr. Romanow: — The answer to that is yes. Number 1, I think, 5(a).

Mr. Merchant: — Though that legislation is under attack. The law as it now speaks says that that tax is unconstitutional. How, Mr. Minister, in a Bill can you overrule a constitutional decision of the courts? How, if I may suggest it to you in this way, can you do something that is unconstitutional through this Bill to cover an unconstitutionality that has been so declared as the law now speaks? An attempt to do through the back door what you failed to do through the front and what you obviously feel you can't win on appeal.

Mr. Romanow: — Mr. Chairman, I believe the Member is in error when he says the reserve tax has been declared unconstitutional, because to my knowledge the reserve tax has not yet even got to the trial level. There have been one or two peripheral actions relating to

payments and non-payments. If the question of the proration regulations is an issue then there too, the Member is under a misunderstanding because while the Central Canada Potash case relied that the regulations were ultra vires, the Member will know that there was another court case started by Cominco, which specifically deals with the payment of the proration fee. So that in reality the most that can be said in advancement of the Member's legal or political position is that both the reserves tax and the proration fee are apparently under attack, the Cominco case and Amax case, but there is no declaration of unconstitutionality except in the one case which deals in for the Central Canada Potash case on some aspects of the prorationing regulations.

Mr. Merchant: — Is the Minister suggesting because prorationing is unconstitutional for Central Canada that prorationing may not be unconstitutional for CPA, for instance, Cominco or any of the other companies? I can't believe my ears. I don't understand what the Minister is saying obviously.

Mr. Romanow: — The Member frequently does not believe his ears and I suggest the answer to that is not a political forum, have to be somewhere else.

The Central Canada case, if the Member will read and peruse it, dealt with the question of the conservation regulations and the constitutionality of that, commonly referred to as part of the proration regulations to which the Members subscribe, but that is the everything of it, the totality of it, that is one issue decided by Justice Disbury in Central Canada.

There is another issue before the courts under a statement of claim. That deals with the prorationing fees, the setting of the fees, the payment of the fees under a statement of claim by Cominco, that is this part. We are talking about the dollars and the valuation of it.

Now, the Member may not want to believe his ears but those are the facts. And the potash reserves tax is only at the, I doubt even a defence state yet.

Mr. Merchant: — Correct me if I am wrong. What the Central Canada Potash case said was that, in laymen's language, the government was using prorationing as a means of going into the industry and to award it a very healthy judgment as a result of what they thought were the improper actions of the government over prorationing.

Now is the Minister implying that because the ratio dissidendi didn't address itself directly to the question of prorationing, that prorationing wasn't found to be ultra vires by Mr. Justice Disbury because if that is what you are saying I suggest you are clearly wrong.

Mr. Romanow: — Mr. Chairman, perhaps I am wrong, I don't know, but one has to look at what the facts are, which the Member refuses to do. And the facts are that somebody else thinks that there has to be an action, just on that very point because Cominco and everybody else has joined in with Cominco – not everybody, Central

Canada might be out of it – has joined in on this second lawsuit. So, if you don't accept my explanation of the fact that the ratio dissidendi or otherwise doesn't cover it, accept the fact that there are some lawyers acting for the potash companies who believe the view that it must be under subject of a court case, because that is the position that we are in.

Mr. Merchant: — Would you agree with me that a fair rating of the Central Canada Potash decision would indicate that Mr. Justice Disbury in addressing himself to the question thought that prorationing was unconstitutional?

Mr. Romanow: — Mr. Chairman, I am not going to say specifically on this because I don't think that my opinion, particularly, is relevant to the central issue here. Whether or not Mr. Justice Disbury's opinion is a correct legal opinion or not, the Member will agree with me it is something that will ultimately be decided by the Court of Appeal or the Supreme Court and then, I suppose, I could be told in the House by the Hon. Member that he was right and I was wrong or vice versa. Again, I think the central issue of the discussion here in the Committee, I draw attention of all the Members back to this, is the question of dealing with an earnings test, fair market value. And as the Hon. Member will agree with me, I am sure, earnings test is one of the key things involved in this and is what the tax position of the companies involved are.

We are dealing here with an arbitration board, not a court of law. An arbitration board who should not be asked to decide the constitutionality all over again or in addition to the legal constitutional questions which are being decided elsewhere, and properly elsewhere, in another forum. All that the arbitration board is being asked to do is to set a fair market value dollar price for taking, of which it is important and incumbent upon the legislators to have, with some degree of certainty, the ground rules set out for the arbitrators to determine. That is all that Section 45 does. I say, with respect to the Hon. Member, that if he says to me that it is under attack, yes, it is under attack and could be declared unconstitutional, but that is one issue. The key issue is the method for the principles to be taken into consideration when you are looking at determining the dollar value for the taking.

Mr. Merchant: — One further question. Surely the Minister is not suggesting that the arbitration board will not have to act according to law in Saskatchewan as the law now speaks in Saskatchewan? What you are imply is that the arbitration board will ignore the law or may ignore the law and can look solely to what Section 45 says. Obviously the first rule that the arbitration board has to pay attention to is, we have to obey the law and we have to follow the law, whether that be civil or criminal, the way it now speaks in Saskatchewan. And that is why these cases are relevant, and that is why the obvious decision of the Attorney general's Department, that they can't win these cases is relevant to a consideration of Section 45. That is why I suggest to you that what Section 45 does, is in a colourable way it tries to do, by the side door that which is unconstitutional by the front and tries to take that step for the political reasons that you are not prepared to say to the people of Saskatchewan we are trying to steal the potash companies. You are not prepared to say to the people

of Saskatchewan we are trying to steal the potash companies. You are not prepared to say to the people of Saskatchewan, we want to build this on an earnings base, which is an 86.9 per cent earnings base for some of the companies – 79 to 80 per cent earnings base for the best companies.

Mr. Romanow: — Well, Mr. Chairman, I don't think I can profitably elaborate on the answer that I have given on other than to repeat again what is key here to remember we are talking about the law and the court cases and these are court cases.

One tax is the reserve tax, that it is alleged by the Opposition and the industry, it is the most significant of the taxes because it takes the biggest bite. The facts are, and I stand to be contradicted but I am sure I am right on this, the facts are that that has not been declared unconstitutional. It has not gone to trial, the tax I think is the Amax Potash case, the reserves tax. There is a second case which is a Central Canada Potash case, which has been heard and determined at the trial level by Mr. Justice Disbury. And that is the conservation regulations, commonly or popularly referred to by the Members and some others as the prorationing regulations. I use that term as well for the easy identification of them. But the fact is that those are conservation regulations in our view; Mr. Justice Disbury says they are illegal and unconstitutional. That was what was at issue there, the 1972 case. That is under appeal. I would suggest to the House that in the one unconstitutional decision there will be a Court of Appeal hearing this next month. I would suggest that the regulations are in the same position legally now, as they were before Mr. Justice Disbury's decision. They will remain to until they are ultimately determined to be intra or ultra vires.

But leaving that aside, even if they are deemed to be ultra vires as it were now, that still doesn't meet the argument that is before us. That is the third case. The third case is the Cominco case which talks about the fees. The actual money paid under again what is popularly referred to as the prorationing regulations. That is still at the statement of claim stage. I don't even think a statement of defence has been filed yet by the Government. It may have been filed, I don't know, but there is no hearing of it.

The Member can put any interpretation he wants on the things but I invite him to consider it from our standpoint. We are moving now with the Bill, forgetting about the policy or the politics of it whether it is good, bad or indifferent philosophically or politically, you people take a position one way, we take a position in another way. Just assume now we are in that position. What guideline are you going to give your arbitrators in order to look at this very vital aspect of the tax situation of the company or companies, which is important for the after tax, the earnings matter, which is key to the determination of fair market value. You have to give them some guidelines, otherwise you will be having your arbitrators in effect doing the same thing that the courts of the law will in due course be involved. So I ask the Members to keep the two different. The constitutionality in the courts in one issue. The payment of the taxation for an after tax earning position is another issue. That is what we are dealing with here. We are setting out guidelines for determination of value. I know the Member

will come back and he will say but the unconstitutionality will affect it, and so forth. I suppose that is all true. But it is not true as of this date. It may not be true for years pending the exhaustion of the appeals, and in any event something has to be done by way of giving guidelines to the appropriate arbitration authority to determine fair value.

Mr. Merchant: — I suggest to you that the arbitration boards will do just that. They will have to decide on the constitutionality of the matters that are involved.

Let me just make one further suggestion to you. If as you say is the case that the potash industry accepts that the prorationing fees have not been struck down, why is it that most of the industry ahs refused to pay the potash reserves tax since the Central Canada Potash case? I suggest to you they have refused and they have said, we don't have to pay now because Central Canada has destroyed the prorationing fees.

Mr. Romanow: — I'm sorry, I was just asking whether or not I heard right, and if the boys here were hearing right, did you say the potash reserves tax . . . I think you said potash reserves tax but you mean prorationing.

That I think is something that has to be more specifically directed to the potash companies. I don't want to get into the whole hassle about payment or non-payment of taxes.

Mr. Merchant: — You said they have accept prorationing.

Mr. Romanow: — I am saying the facts are – let me back up. You said that Disbury's decision meant by any reasonable reading of it, that both the conservation aspect of the regulations and as a consequence the subsequent fee aspect of the regulations should be ultra vires. That is what you said. I said in response to that if you didn't accept my acceptance of that position then, please, to accept the Cominco. They have launched a statement of claim precisely on that point. You asked me as a further follow-up, why then do they refuse to pay the fees? To which I answered, perhaps that should be somewhat directed more to the industry, maybe they are taking the position but the statement of claim is out there. Until it is heard and determined they are not going to be paying any fees until that court case is determined. Maybe it is a form of protest for non-payment. I don't know. I haven't heard any particular comments on this. I think that from a legal standpoint, they may very well be trying to hook on Mr. Justice Disbury's decision earlier as well, I grant the Member that, as a reason for non-payment. But all of that as I say again is relevant to the court situation but for the valuation section, in my respectful view, it doesn't help us much.

Mr. Cameron: — Mr. Chairman, if the Attorney General came before us with respect to this section, with respect to Section 42 and with respect to Section 60, and he said in effect, this is the position that we see is going to apply. We are putting these sections before you, whether you like them or whether you don't.

These are the sections we abide by. If you don't like them you can take the issue and argue. That would be one way in which he could put to us the propositions he has. The other way is for him to attempt as he has been trying to do to defend these things as usual in the law. He knows and any person knows who has had any training and experience in the law that there are three substantial departures represented in these three sections. Substantial departures from what the law usually is. These sections are oppressive and anyone who knows anything of the law about expropriation knows they are oppressive. These are unique sections. These sections have never appeared in any expropriation Acts in the province.

Some Hon. Members: — Hear, hear!

Mr. Cameron: — What I object to so strenuously is the Attorney General putting it to us as though these were somehow usual and there is precedent for them when there isn't. The fact is that these sections are unjust. They are unique in the law. They are malicious. And since they have been deliberately put in this Bill for oppressive reasons I say they are Machiavellian.

What you are doing when you put to us a proposition like this, which in itself is unjust, then you add to it by giving to us empty reasons for them. So you are adding deception on top of injustice. They are not usual to the law. The law of this province is found in The Expropriation Procedures Act, four sources. The rules of court as to procedure, The Expropriation Procedures Act, the common law and specific expropriation procedures in specific Acts.

I challenge you to give me one instance of an expropriation in this province in history in which rules of this kind have been applied. Because I tell you they don't exist. I have seen lots of expropriations on both sides, on behalf of the expropriating authority and on behalf of the owner. These rules are unique, these rules are designed to provide a value which is less than what is fair. If you want specifics I am about to give you some specifics on these sections.

You know very well that the usual rule of expropriation is value to the owner. That is the usual rule that applies. You know that it is a cardinal principle of expropriation law that the expropriating authority cannot do something oppressive in advance to lower the value of the property being expropriated. That has always been the law in this province and that law is wiped out by this section.

You know too, and every lawyer does that has had any experience with expropriation, that an expropriated owner is entitled to damages to property that is disturbed in the expropriation. Subsection (7) of this Act wipes out that longstanding rule. Again, you know that.

I go on further. There is a section that rules out the old rule of giving the owner 10 per cent in addition because of the uncertainty of the expropriation procedure. Fair enough, I will grant you that one. That one has been tacky for a long time and is probably no longer the law in the province anyhow. One I will give you.

The other is, and he knows this as well that the usual basis of compensation is to take the present cash worth of the assets with all the future potential discounted back to the day of expropriation. That rule again is breached here because that is taken away by Section 45(3).

I say don't come to us and tell us that this is a fair section about expropriation value and expropriation procedure because it is not and you know it is not. As I say, if you came to us and said these are the rules that are going to apply and you answered questions on technical detail, fair enough. But don't tell us they are usual or fair because they are not usual and they are not fair. I am not going to belabour the point in any detail. There is no use. Don't get caught up in all your detail trying to convince us or anybody else these are fair measures, because you know they are not. That is why I say it is bad enough to bring about an injustice of this kind which these Bills do. Don't add to your error in injustice by giving us a lot of deceptive reasons to support them and tell us they are fair. They are unique, they are unfair. There are three examples here of a substantial departure from the law as it has been in this province through its history. Don't tell us they are fair.

Mr. Romanow: — You know, Mr. Chairman, talking about practice of deception. For the Hon. Member to get up and to cite to us The Expropriation Procedures Act, Chapter 28, and say this is the law and you are denying the law. And then when he gives us four sources of the law, to do that, four sources of the law which he knows full well are four sources of the law relating to the expropriation or taking of land, as opposed to taking of a business.

Mr. Cameron: — I gave four sources . . .

Mr. Romanow: — No, No, you give me one case authority, Mr. Member for Regina South (Mr. Cameron), one case authority of any of those four principles that apply to business . . .

Mr. Cameron: — They apply . . .

Mr. Romanow: — I am saying . . .

Mr. Chairman: — Order, order! One speaker at a time please.

Mr. Romanow: — I am saying to the Hon. Member opposite that, and this will be obvious to all the Members and to the press, all one has to do is pick up The Expropriation Procedures Act, and those four common law principles value to the owner, and he will know that those are expropriations relating to the taking of land. He will also know that in the expropriations of businesses, but it in British Columbia for the BC Electric or be it in Brinco or be it in the West Canadian Hydro Electric case in the Supreme Court of Canada, he will know that the test is the earnings test. A different set of principles apply. That you will know. You may not accept that. He may want to advocate the arguments and these are arguments which are different from the taking of the land. I readily acknowledge to him that these

are not the same as the principles that he has talked about. I readily acknowledge to the House, Mr. Chairman, that those principles that he says we are not applying here basically. I readily acknowledge that. Because, I say to him and to the Members of the House, we are dealing with two different things.

We are taking with the expropriation of a growing concern for which the determination tests are different. I did not imply, if I did imply that, I withdraw to the Hon. Member for Regina South, I withdraw to the House. I did not want to leave the implication that Section 45(5) had a precedent, particularly. I don't know if it has a precedent or not. But I am not hanging my case on that. I am hanging my case on Section 45(5) for one reason and one reason only. As I have said to the Member for Wascana (Mr. Merchant) somebody has to in the tax confusion, the non-deductibility versus the deductibility, the question of the royalties of reserves tax, constitutionality, somebody has to be arbitrator, give him some guidelines as to how he applies the tax situation in order to come to the after tax earnings of the going concern business.

As I say, you can describe any terms you want on it, Machiavellian, or deceptive or whatever you want. But that is the simple fact of the situation as relates to these two laws. And I think that all the Members in the House will know that.

Some Hon. Members: — Hear, hear!

Mr. Cameron: — Mr. Chairman, the rules of expropriation in the common law have been a hundred years or more in the making. This is not the first expropriation Act that has ever been passed. Expropriations have been taking place in this province since its inception, it has been taking place in the root of our law for many, many years. As I say the rules of fairness and the rules of expropriation have been a hundred years in their steeping. The common law is full of examples, many examples of businesses having been expropriated. Not only that, I tell you there have been businesses expropriated in this city under the four sources that I referred you to. If you want an example I give you the greenhouses in Wascana Centre as an example. Business expropriations. They are going concerns. They didn't get expropriated under this Act or these rules because it would have been an oppressive expropriation.

I gave you four reasons. I said the common law which has been there for tens of decades of years and have over the course of time evolved certain principles of fairness. There are specific enactments about expropriation in specific statutes in this province. You know yourself, it was your own department, your predecessor's department which spent a very long time discussing expropriation procedures in this province that led to The Expropriation Procedures Act. I said there were the rules of court as well. If you want another example of an aberration, it is with respect to the section I referred to which is 43(2) which requires the company to give you its documents and valuation when the expropriating authority does not have to give his documents. That is an aberration. That is a unique situation. Don't' tell me it isn't.

What it leads to is this. He would have us believe that value is somehow – exists out there in the abstract and all one

need do is get at it. Value is a matter of opinion. Value is determined by appraisers, conflicting appraisers. Very often one side will have three or four and the other side will have three or four. The court will eventually take that opinion of amalgam of those opinions which it considers to be the fairest. The potash corporation will have appraisers at work, that is obvious. They may have as many as three or four or five appraisals with respect to the value of the mine. Potash companies will have their appraisals. The difference is that a potash company is going to have to produce its appraisals to the Government when the Government in turn doesn't have to produce theirs to the potash corporation.

Now, how anyone can stand here and say that is fair completely defies any understanding and any logic. No amount of fluff is ever going to change the fact that this is unfair and no amount of telling me that I am somehow defending the multinational corporations is going to deter me either, is injustice no matter whom it is visited upon.

Some Hon. Members: — Hear, hear!

Mr. Merchant: — The Minister will agree the expropriation is based according to your theory on an earnings basis which largely involves tax. The potash industry says that you are leaving them 13 per cent of profits. That 13 per cent would then be multiplied by let us say, 10, so according to your theory a company is worth perhaps 130 or 140 per cent, one and a half times its annual profits. Would you agree with those numbers?

Mr. Romanow: — The answer is no, I don't agree with those numbers.

Mr. Bailey: — Mr. Chairman, in discussing this section, the Attorney General has said, you destroy this, you destroy the Bill.

I am amazed, Mr. Chairman, that here we have before this House a Bill which has never been seen before, the like of it, in the history of this province. Here is a Minister in charge of the potash corporation who sits with his back to the groups reading a magazine, most of the Members opposite don't' even have the Act on their desks and they could care less. But here we have a case in this part of the Act where in fact it provides the Government with the power to go into existing operation, an existing mine and purchase only that part they say they want. It gives them the power to go in and literally buy only those items within the operation of that mine that they want and leave the rest standing there which would then be of no value to the mine at all. I can't understand how you can say that this section is fair when you look at particularly clause 8 of Section 45. There is no way this makes any sense whatsoever in the powers of expropriation.

Mr. Merchant: — Mr. Chairman, obviously the 45(5) rule is little more than a progression of the federal-provincial fight, if I may characterize it that way. What you have done with Section 45(5) was the Provincial Government lost the fight to the Federal Government and then said we'll have the last word, we'll expropriate in accordance with the way we think the world should turn.

It doesn't exist that way, the tax situation doesn't fit that mould, but that is the basis upon which we are going to expropriate.

I wonder, Mr. Chairman, if the Minister would tell the House why in dealing with the Federal Government the Provincial Government chose to not inform the Federal Government of the tax base that they proposed. Mr. Turner was here, the Minister of Finance, to negotiate just these matters, he was here some days before the Provincial Government announced the tax base, some days before the reserves tax, and you didn't even disclose it to him. He went back to Ottawa and he read about it in the newspapers, like everyone else.

Mr. Romanow: — Mr. Chairman, I don't know if my comments are relevant to this particular aspect of it. All that I would suggest to the Hon. Member is that I am very doubtful that the federal authorities consult with or did indeed consult with us as to their intentions about the non-deductibility.

Mr. Merchant: — Are you saying they didn't?

Mr. Romanow: — I am not sure whether they did or didn't. I can't say that for sure. My point being simply this, that governments who are acting on the long time-honoured tax law, the Member would agree with me, that this is the first time this happened in Canadian history, the non-deductibility of the provincial operation.

We are entitled to assume that that is not going to be changed, perhaps that is presumptuous of us. In any event, we are entitled to assume that more tax laws provincially are predicated on valid laws. All I am saying is that I doubt if the Federal Government consulted with us on their changes. In fact, I would almost be prepared to say they didn't, that doesn't say we shouldn't, but for they same reason they didn't, we didn't. We feel that we ought to act properly within the sphere of the constitutional and tax powers that we have. I don't think there is anything Machiavellian about it, to use the words of the Member for Regina South (Mr. Cameron).

Mr. Merchant: — Mr. Chairman, nothing Machiavellian? Five days before you introduced the potash reserves tax, John Turner, the Minister of Finance, made a trip to Regina to meet with Wes Robbins and Elwood Cowley to discuss reserves taxation, spent three hours at a meeting with those two Ministers and he wasn't told about the potash reserves tax. He got back on the plane, back to Ottawa and to use the words of Otto Lang, "They read about it in the newspaper like everyone else." John Turner said that it was a rather unhappy form of consultation.

Let me just read to what Don Jamieson said:

> If the situation was reversed there would have been hell to pay on the part of the provincial people who would have said, what a scandalous thing for the Federal Government to do, they had us down here in Ottawa and sent us home without telling us anything about what they had obviously decided upon.

Are you suggesting that that was a fair and open and honest way to enter into consultation with the Federal Government?

Mr. Romanow: — Mr. Chairman, I have given the Member the answer about the degree of consultation that we have had in exchange which was next to nil, if not nil, that's what they gave to us, so their intentions weren't communicated to us. In fact I think Alberta and Saskatchewan, when it came to the royalty question, were as astounded as anybody about the provisions. You will recall the outrage of the Conservative Party about the non-deductibility and so forth. I am not saying tit for tat, I don't put it in that sense, but everybody has responsibilities they act the way they think they should act, and we act the way we think we should act. It's as simple as that.

Mr. Merchant: — Mr. Chairman, of course the very great importance in dealing with the Federal Government is that if the Provincial Government is capable of setting up a Crown corporation and avoiding through the reserves tax system – the reserves tax was the final move in the direction of your government to avoid paying these taxes, to avoid having the industry pay its fair share to the Federal Government. Would the Minister, going into some political hypothesis, not agree that if you get away without paying tax – if you can I applaud you – (As a Member of the Saskatchewan Legislature I am pleased if you can get away with it, in the short term it would be good for Saskatchewan.) Would you not agree that it almost compels other provincial governments to follow this same course. You may think that having everything run by the provincial government is a good thing, we don't in the long run. If through this manoeuvre you can avoid the federal tax share, does that not encourage the Quebec Government to take over the asbestos industry, the Ontario Government the tin industry, the British Columbia Government the lumber industry and so on?

Mr. Romanow: — Mr. Chairman, I don't believe that the reserves tax or this move as another aspect of the matter are at all motivated on any particular idea of federal-provincial fiscal arrangements and tax-sharing arrangements and what they should or shouldn't be necessarily. We are here talking about a Crown corporation – I have said and I believe in my judgment Section 125 of the British North America Act speaks definitively on that, and says that no lands or property of either provinces or Canada is subject to taxation. But I have also said both inside this House I believe in oral question period, and outside the House that while we think we are soundly based in law we stand willing if that is indeed the development to discuss with the Federal Government all aspects of their tax base, and the consequences of similar moves such as the Member outlined in Quebec.

I don't think and I say on behalf of the Government we don't want to adopt a confrontation stance on the taxation business with the federal authorities. I would hope that we can work out something which is a friendly and fair solution both to the people of Saskatchewan who own their resources and to Canada as part of our share in Confederation. Accordingly, I don't accept the suggestion, implied or otherwise, that somehow we have written subsection (5) of Section 34 as a step in the confrontation politics of this thing. I think Canada and Saskatchewan is just too important to do it on that basis. I can assure you that the motivation for Section 45 is tied in within the overall motivation for Bill 1 about the history of the industry, etc.

Mr. Merchant: — Some friendly and fair arrangement I assume means something between the hitherto announced provincial stance that they will pay no tax and the federal stance enunciated by a couple of Ministers that you will pay full tax just like any other corporation. Does the Government accept that they will have to pay some or all of the tax load to the Federal Government for the Potash Corporation of Saskatchewan?

Mr. Romanow: — Mr. Chairman, I can't put it any higher than I have already and that is that this will have to be worked out I suppose in subsequent negotiation and discussions. As I have said, hopefully in such a way that this thing can be resolved to the interest of Saskatchewan and Canada.

However, as the Member will appreciate if we are faced with a proposition from the federal authority which in our judgment is totally prejudicial to the interest of the province of Saskatchewan, then the Member, I am sure would agree with me that we would be fully entitled indeed, would almost be obligated upon us to fall back on the protective powers of Section 125. That's the highest that I can put it on. I can't commit myself at this stage in the game because quite obviously to do so would be to commit the people of Saskatchewan in the province of Saskatchewan to what ultimately might be a grossly unfair tax regime imposed on us by federal people, for our own resource.

Mr. Merchant: — Mr. Chairman, let me move to another area. Would the Minister agree that there is a completely unfettered discretion in the arbitration board? I don't think there is any doubt about that. The ordinary question in expropriation is to give the ordinary value to the owner, there is an unfettered discretion, would the Minister agree that if the earnings basis is not upheld and within an unfettered discretion the arbitration board can go on to any valuation basis that it likes. If the earnings basis is not upheld, you will be paying far more than you have up until this point planned to pay or anticipated you would be paying?

Mr. Romanow: — I think, Mr. Chairman, that that doesn't necessarily follow. If the earnings test is not upheld by the board of arbitration and some other test is used it depends of course on the other test that is used.

There may very well be an asset value test after depreciations of the whole operation. This indeed may work out to something similar to the earnings test. It not necessarily follows that what the Member says is true. Under a circumstance if the arbitration board takes a totally different tack, I don't know what kind they might take conceivably but replacement, future costs of replacement, I don't know, there might be more of a payment than one might pay under an earnings test. To that extent I would perhaps agree with the member. But on balance I don't think that that is very likely at all given the case authorities on the expropriation of a business as a going concern. The authorities seem to be pretty clear that it is an earnings test of some sort, capitalized earnings or discounted cash flow, or whatever, the effect of which will be basically not to alter the expectations of payment, if I may put it in that sense.

Mr. Merchant: — There are three possibilities if the Minister is correct about cost and depreciation. One possibility is that the arbitration board could look at cost minus depreciation. A second possibility is replacement cost minus depreciation.

I wonder if the Minister would agree with me that the most likely of those three possibilities is inflated costs minus inflated depreciation? If I may use an example, a mine for instance that cost $100 million has been depreciated 25 per cent, but would not cost $300 million to build. That mine with inflation accounting would be viewed as valued at $300 million minus 25 per cent of the $330 million. You would be looking at a value of about $225 million. What I am getting at is that what you try to do with Section 45 is cut out all potential. What you are hoping to do with Section 45 is cut out the potential of the industry by saying that they have to be paid on the basis of their earnings and their earnings are low because of the tough tax regime that you have set up.

Would the Minister not agree with me that if you have to pay for potential and most industries and most businesses are sold with some thought of potential, you could be paying for far more money than you anticipate you are going to be paying now?

Mr. Romanow: — Mr. Chairman, this is a very complicated and important area of the law that the Member raises, especially to this Bill. We have had good discussion on it.

I wan to say that the Member hypothetically places questions to me about replacement value, replacement costs, depreciated replacement costs and so forth, as a method of compensation and it is possible. To that type of question, I must of necessity reply that it is possible. Again, I am sure the Member would agree that really what we have to look at are the probabilities, based on the case authorities on the tests, on the learned authors who have studied this area over and over again. Certainly I don't put myself in that category by any stretch of the imagination, rely on advice. If one does and there are a number of texts, one that has just been drawn to my attention about valuation that is a text by Mr. Campbell, Principles and Practices of Business Valuation which is worth looking at. You will find there that the bulk of the authorities, the bulk, that when you are buying a business as a going concern, which is what we are doing here, going concern, the test is earnings test, after tax, earnings test. I may take the liberty of, I don't want to go into the text books, there are all sorts of quotations that are there, but I don't think that particularly helps us because ultimately the arbitration board will have to decide.

Let me say another thing, that I would like to draw to the attention of the Member is the, perhaps I'll just give the Member the citation some time in the future. It's a very lengthy case. I must confess that I've only read it quickly. The head note is a comprehensive one about four pages. It's West Canadian Hydro and its citation is 1950, 3 DLR, page 321. I don't say it's the only case, but I think it talks in reasonable terms on the business of valuation of a takeover of a business that is a going concern, which is what it was there, hydro. I think it's similar to a potash mine as a going

concern.

That is, in the head note, they talk about the various tests that can be applied and, I don't want to take it out of context, but again to speed it up, the simple part of the head note says,

> where a going concern is expropriated regard must be given to its earning capacity or the lack of it, unless the statute otherwise prescribes. This element is merely an integral part of consideration of commercial or market value.

The earnings test, commercial or market value, fair market value, with our section does. I think the Member could go on from authority to another authority on this and he will find that that's basically the test.

So again, if the Member gets up and says 'is it not possible that this could happen?' I have to in the pure theoretical terms conceive that it is possible, but on the practicalities of it I would refer the Member back to my second reading speech which is the best legal opinion that I have on the advice that I have gotten from a variety of sources. I can't accept the Member's view that that is very likely to happen, namely that the depreciated cost, replacement cost is going to be a test.

Mr. Merchant: — With all due respect to the Minister, Mr. Chairman, it's not particularly a legal argument, it's a valuation if you want to look, by example, the kind of valuation that exists in the stock market. Where a company operating apartment buildings may sell its six or seven or eight or nine or ten times earnings but resource companies tend to sell at 29, or 39 or 49 or 79 times earnings. Because resource companies are always looking at potential and what you're doing is mixing apples and oranges you're saying, the expropriation will flow in the same way that you would expropriate the Hudson's Bay. It doesn't have any particular potential. It's got the stores in Western Canada. So if we expropriate Hudson's Bay, we look at their earnings, then we just multiply it by 12 and pay them off. You can't expect the earnings test to be used in a resource company because resource companies look at potential and we know from these companies that with simple expansion they would have been able to greatly increase their production and greatly increase their profits. That's the reason, if you like, that the potash companies are fighting the expropriation. Turn two arguments around that you've used on us and that in other forms that you've used on the potash companies. First, why do the potash companies fight being expropriated, when they are only earning 4 and 5 per cent? They fight being expropriated because they know they have a great potential in the future. The second argument is, that you've stood in your place and Members opposite have stood in their place and told us about the fantastic potential of that industry in Saskatchewan. A fantastic potential. Reserves to last us for thousands and thousands of years. Now you say you'll come along and take that away on the earnings test. The Potash Company of America wouldn't have come into this province in the first place if they had thought that they could be taken over on the basis of their earnings. They came in, they suffered great losses initially because they knew that if they could crack it here, crack potash at these kinds of levels, get a

marketing system going, that the potential was a massive potential, even though the transportation costs were high. Now the Government proposes to come along and take away that potential. If you can get by that earnings test. Now, what I'm suggesting to you is that by giving the unfettered discretion, you may well have opened the door to a judge, a fairly-minded judge, acting under 45 to say, no. We may be bound by 45 in dealing with the tests that we'll apply, we may be bound by the tax regime but we have to look at the potential and the potential is massive. You can't on one day tell us that you are investing your money in the potash industry in Saskatchewan because of the potential and on the next day say that a fair-minded judge in an arbitration won't give any points to the potential.

Let me suggest it to you in a different way. If you are correct that you can take things over solely on the earnings test, then why would the Government put out a potash industry that's making 5 per cent on its money and repay it with money that you have to go to other multinational companies and pay 10 or 11 per cent to get the money to pay them out. You are doing that you tell us because of the potential of the industry. You are doing that you tell us because, and quite rightly, through incremental production you can make far more per ton on a fresh ton, on those incremental tons that you can make on the tons that are being produced now. That's the potential of the industry. The earnings test ignores potential and I don't think that Section 45 will let you get away with it. I don't think that the arbitration board, because you've tried to appear fair and you've put Queen's Bench judges there, I don't think that those Queen's Bench judges will follow the earnings test. If they go earnings test to a limited degree, they've got to look at the potential that the Government itself keeps telling them about and if they do that you are going to be paying far more.

It's so obvious that the Government is misdirecting itself in the dollars you're talking when we hear the kind of money that the Government is taking. The Government seems to think that they can take over the whole industry for a billion dollars. When we had the figure of $500 to a billion and then when we would suggest that that's a lot of money, you'd say ah, but that's for the whole industry, when you know that the investment in the industry is fully a billion. So you must think that you can slide by on the earnings test, ignore the potential and if you're directing yourself in that matter, then, Mr. Chairman, I suggest to Members opposite that they may well find themselves paying far more for the industry. That's part of the reason we fear it may be a bad deal.

Mr. Romanow: — Mr. Chairman, again I say to the Hon. Members opposite that it sometimes does get a bit confusing because on the one hand we were condemned yesterday for taking over the mines at a time when the future looked very, very dim. The markets were bad and we were saddling the province of Saskatchewan with a bad deal. Now we are being condemned because we're not taking into account this very bright, rosy potential and this very bright rosy future.

The other thing is that the Member, on the one hand he condemns us because Section 45 is so liberal that it could result in a decision that is going to cost us too much. Yet on the other hand, if we tightened up the definition he would be

condemning us as he is on subsection (5) anyway, that we're tying it too tight. What we're doing of course is getting a middle course. But leaving those aside, these are just my little attempts to score small debating points and I'm not going to get into that as an issue.

I think that really here we have a basic misunderstanding I think on the part of some people as to exactly what we're talking about when we are talking about an earnings test. Because really when you are talking about potential, which is the word that the Member talks about, when you are talking about future earnings and so forth and you are talking about multipliers which is what he talked about in effect, a system that he has implied that we have ignored, he really is talking no more, no less than what we are saying. Because what he is describing, Mr. Chairman, is an earnings test, only it's a capitalized earnings test. That is what the Member is describing.

The Member's description of how we should be evaluating this is another aspect of an earnings test. It's a capitalized earnings test. I just invite you to harken back to what the Member said and to look at the three characteristics of a capitalized earnings test.

One, indicated after tax earnings, from the operation affected. Two, you've got t have a capitalization rate. The Member referred to it as a multiplier. That's another way of working it. It's a capitalization rate. Three, you have to take a look at all the other net assets, redundant assets and what do you do? You apply certain multiplier tests. He says 78 or whatever the multiplier is. I think he is way too high, but that doesn't matter. You then apply the net redundant tests, and you then obtain an overall fair market value for the business interest concerned. What the Member was describing almost to a "T" is the capitalized earnings approach. That is but one aspect of the basic fundamental earnings approach, which is what we say will be the approach used on fair market value. Allan, Canadian, Westcan and so forth, all the cases.

Now whether you take a capitalized earnings test or whether you take discounted cash flow as an earnings test or whether you take your going concern value as an earnings test, they are all variations of the same earnings test, all taking into a consideration in some form or other, even the discounted cash flow, the future potential of the companies.

So, I do say to the Members that in effect the Member for Wascana, we're doing what the Member for Wascana says we should be doing by this Bill, which is the earnings test. So I don't see any problem there, Mr. Chairman, in this regard.

Section 45 agreed to.

Section 46

Mr. Malone: — Mr. Chairman, would the Minister just tell me why this is necessary, this particular section? Surely the whole thrust of the Bill suggests this, that is the compensation awarded stands in the place of the assets expropriated. Is there some legal reason for this section to be here?

Mr. Romanow: — This really is a standard section. I would simply

just answer the Member's question, that it appears in the Expropriation Act of Canada, Expropriation Act of Alberta, Section 59; Expropriation Act of Ontario, Section 36; Expropriation Procedure Act of Saskatchewan, Section 42. It's a standard provision that is in expropriation laws.

Mr. Malone: — My question is why? Why is it there?

Mr. Romanow: — Well, again the Member will ask I think another question of why. We excluded The Expropriation Procedure Act of Saskatchewan as the Member will know. Therefore, we excluded that provision which existed in The Expropriation Procedure Act. We have to therefore, put it into this Bill. Again, a reinstatement of the law.

Mr. Malone: — I'm not trying to trick you into anything or be devious. I'm just asking you a simple question. Why is it there? I want an answer.

Mr. Romanow: — I'm not trying to be deceptive or otherwise. I just simply say that it is part of, I am advised by those who have looked at the expropriation law, that this is part of the theme of expropriation law. Namely that what you do, in this type of expropriation law, is you substitute the assets, expropriated with a compensation fund, which is the fund set and determined by the arbitration board. The fund takes the place and the stead of the assets so expropriated. Thus the secureds attached to it and so forth. Everybody makes the payments that are after that. That is the consistent theme of expropriation when you take over the title, the asset you take over. What is left in its place, instead of the asset, is the fund, the dollar value.

Mr. Malone: — You said yesterday, I recall I asked you questions about the liability of companies to other creditors if the fund wasn't enough to pay them off and you indicated that the companies would still be liable and I think that's a correct assessment of the Act. Does this Section 46 do anything there? Does this allow the potash companies to get off the hook from other creditors who don't have their claims fully satisfied from the expropriation fund? Can it be interpreted in that manner?

Mr. Romanow: — No, Mr. Chairman, I don't believe this would allow the potash companies to get off the hook, certainly not as regards the secureds. The unsecureds we have already gone through that hassle, you know, if they take the money and go and this type of thing. But, once it's expropriated and the fund is there for the expropriated assets, the secureds attach to the fund and then as the Member will know, there are pretty straightforward provisions in the Bill that follow thereafter about what happens if there is an agreement between the secureds and the corporation and what happens if the secured are less than the total expropriation, There are a variety of contingencies which apply, which will see the secureds satisfied out of the funds.

In the circumstances that you described yesterday, or a day or two ago, now I forget. You know, supposing it's not enough.

Then my answer is the same as it was that I gave earlier, it would have to go against the company.

Section 46 agreed to.

Section 47

Mr. Malone: — Mr. Minister, on this section, I suggest that you are limiting to a certain extent the powers of the Court of Appeal. Would it be possible for the Court of Appeal under this section simply to quash a decision of the arbitration board, leaving aside prerogative threats and so on. Could the Court of Appeal just say, well, the board obviously misinterpreted the evidence that was before it, this decision is wrong in fact, wrong in law, wrong all the way, so we're just going to throw out the decision?

Mr. Romanow: — I think subsection (2) of 47 should answer the Member's query. Yes, he can just refer it back to the board. The Court of Appeal can do that. The Court of Appeal may affirm the amount, alter the amount, such amount as the court considers the board ought to have ordered, or refer the whole matter back to the board of arbitration with such directions as it would consider necessary in the circumstances. So that if there was something wrong, some improper evidence, there would be these options open to the court. They could amend, confirm or simply say, okay look it, you didn't consider this so we send it back to you.

Mr. Malone: — What you are saying is that the court can't simply say as it would in an ordinary civil suit, you were wrong, we're not going to do anything further other than say you are wrong and you have to start all over again if you want to pursue the matter.

Mr. Romanow: — I think that if they refer it back, again without being too blanket about this, because it depends on what they refer, I could imagine, I don't know now if I'm legally on this sound footing or not, but I think that they could refer perhaps a part of it back. Basically if something was so fundamentally wrong and the Appeal Court spotted it, I think it would have had the equivalence of a new trial take it back.

Section 47 agreed to.

Section 48 agreed to.

Section 49

Mr. Malone: — There is reference here and in other sections, I might as well deal with it here, about matters being referred to the Court of Queen's Bench to make the terminations and so on and so forth, now what guidelines are given to the Court of Queen's Bench? Say there are three security creditors ranking one, two, three, the fund established by the arbitration board will pay off the first secured creditor but nobody else. Now are you suggesting that the Court of Queen's Bench through this section and the other sections would have a discretion and say, well, that is unfair to the second secured creditor, we are going to direct that he shares to a certain extent in the fund.

Mr. Romanow: — Mr. Chairman, my advice is that under those circumstances a the Court of Queen's Bench would handle this similarly if not identically to how it would handle it in a normal civil case, say a judicial sale of land or whatever, they would be ranking, they would be taking evidence and so forth. So that in effect where this does take place and it goes back to the Queen's Bench under the common law provisions, it relates to secureds, priorities and things of the nature they would determine the whole issue and we would be then bound to make payments out according to their determination of the fund.

Mr. Malone: — Frankly, I don't quite see what the court can do. I mean it can determine whether a creditor is secured or not secured. I don't have any quarrel with that but once it determines that there are three secured creditors or whatever, really what discretion does it have from them? I mean if the fund will just pay off the first secured creditor, surely that is the answer. It would be obvious that that is it and the other two are out of luck or they have to proceed against the company in another jurisdiction or another remedy. Is that the case?

Mr. Romanow: — I think that is the case but again I would remind the Member that is no different from the law now if this Bill was not around of course. Then we get back into the whole hassle that it is due to expropriation but it is the same situation now. If there was a judicial sale involved, forgetting about the expropriation, the claim would be as against the assets and there may not be a sufficient value of assets to cover all the secured claims, and accordingly as to the common law provisions, somebody might be affected in some way. All that our Act says is you just strike out 'assets' and put in there 'the fund' and the same potential exists there. But the point that must be stressed in that the Queen's Bench judge has the freedom to decide the issues according to the common law principles.

Mr. Malone: — That's all. You're not giving them any more discretion or any more power than he would have under The Bankruptcy Act or whatever.

Mr. Romanow: — Yes. I think no more, no less.

The question being put on Section 49, it was agreed to.

Section 50

Mr. Chairman: — "Determination of Claim of secured creditor who was unaware of arbitration." And we have an amendment to that section by the Hon. Mr. Romanow:

> Amend Clause (a) of subsection (3) of Section 50 of the printed Bill by striking out, 'from the compensation determined' in the sixth line.

Mr. Romanow: — Mr. Chairman, this is

again a very technical amendment, it does not alter the intent of the section. What it does in subsection (3), sub (a) of the printed Bill, line four or five, it strikes out the words, 'from the compensation determined', and it is struck out because it is not necessary. Those are redundant words, it does not alter the import of the section.

The question being put on Section 50, as amended, agreed to.

Section 51

Mr. Malone: — What issues do you anticipate? Is this a situation where somebody doubts the security of a creditor and he goes to court to establish that he is a properly secured creditor? Is this what this is getting at?

Mr. Romanow: — I think, Mr. Chairman, I would answer the Hon. Member, again I am not myself an expert on this but I am advised that there could be two issues that could apply. The first issue of course, the referral or direct trial of an issue, one issue might be the validity of the plan. You know, more than I do, that it gets very complicated sometimes. Of course, another issue which is contemplated or anticipated is its ranking, the priority of the . . .

Mr. Chairman: — Order, please. I think your point is well taken. It seems like each period of the day we have to draw to the attention of the Members that things would function much better if we could have a little bit more quiet within the House. I urge them to adhere to this. I hate to have to remind them quite frequently.

Mr. Romanow: — Mr. Chairman, I would just simply repeat that this is not intended to be an exhaustive list, but two that comes to mind is, one, the validity of the client and another one is the ranking of the client, priority of it and so forth, both of which can be very contentious in a court of law and which would be handled in this normal fashion, usual fashion.

The question being put on Section 51, agreed to.

Section 52 agreed to.

Section 53

Mr. Malone: — Again a technical question I suppose, but why do you have this 90 day provision? What is the magic in 90 days, why not 30 days or 10 days?

Mr. Romanow: — I think that is just an arbitrary period that we have selected. I think it was a reasoned attempt to figure out how we could accomplish the payments out and pay them out with a time limit, and 90 days seemed to us to be a good time.

The question being put on Section 53, it was agreed to.

Section 54

Mr. Malone: — On this section, Mr. Chairman and Mr. Minister, how do you determine the value of the potash at the time such an agreement would be made?

Mr. Romanow: — Mr. Chairman, there is only one way that that can be done basically and that is by agreement. The section says that 'if a person entitled to compensation may agree to accept refined potash', if there is no agreement between the two parties, the corporation and the owners, then we can't use this section.

Mr. Merchant: — Let me make a suggestion, you may well ignore it. I have a suggestion here and a suggestion in the next section. I expect that what you would do to the Saskatchewan industry if you pay in potash is you will allow the companies to use the potash to maintain their customers during the period of time that they build up other companies to compete with the Saskatchewan production. I don't think there can be any doubt the fact that what these companies are going to do is take our Saskatchewan money and use that as a down payment on building other plants elsewhere.

There's only one thing these people know and that's how to build and operate potash mines. If you give them the potash to maintain their market, then what's going to happen is you just help them to destroy the Saskatchewan long-term potash industry. I'm worried when I see a section like that in the Act and I'm worried when I see a section like 55 in the Act because I'm concerned that what may happen is the people running PCS may fall into the traps that 54 and 55 hold out and I certainly hope that we don't see payment with potash, Saskatchewan potash. If you are going to take this gamble then all of us in Saskatchewan are in the gamble and we hope you'll be able to maintain the market.

Mr. Romanow: — I don't know if I can get those words as support from the Member but I do want to say that to take the Member's suggestion but the Member will also agree with me that not all the potash companies are strictly potash companies or at least the owners of Pennzoil is an oil company basically. They might want to use the refined potash and not use it from your standpoint. I think it is a point worthy of further consideration all right.

The question being put on Section 54, agreed to.

Section 55

Mr. Malone: — Surely this is the most ridiculous part of the whole statute or one of the most ridiculous parts. When you decided you were going to take over the potash companies you set the ground rules as to how you are going to determine the compensation to be paid to them on a one way process, not a two way kind of an agreement and then after you go through all the determination, all appeal proceedings, everything else, you turn to the potash companies and say, we're only going to give you 30 per cent cash, the rest in bonds or some other evidence

of indebtedness. How can you justify this particular provision?

Mr. Romanow: — What I would like to know from the Member is why he says this is a bad section from that standpoint. I'm not sure I get the full impute of the Member's attack on this.

Mr. Malone: — It is unjust from the potash point of view. They just have their mine taken away from them, all their means of production and all they are getting back is 30 per cent of its value according to rules that you set.

Mr. Romanow: — I guess we may not agree here from my side and the Opposition's side as to the worth or the effect of the bonds if I may put it like that. If my memory stands me in good stead I recall the Member for Wascana in second reading, I think, saying if you give them open bonds he's going to have a whole bunch of these negotiable instruments around and they could use them on the market, etc. The point that I make in quoting the Member for Wascana is that presuming that these bonds will be negotiable they'll be paying the prime interest rate, they've got the province of Saskatchewan behind them, they're not cash, that's true but there are other very attractive aspects of it and I just can't quite see why anybody really should object to it, in fact, if anything. I think the Member for Wascana's comments are the ones that should be considered, mainly that there might be some dangers attached to the Government in this area.

Mr. Merchant: — Just on that, what the Minister is saying and it's quite right. I suggested that it would be a dangerous thing and I hate to make suggestions like that and like 54 because I'm always expecting that the Minister will get up and say for the edification of the Member opposite we do have people running the potash corporations who know something about business. I still tend to make those comments just in case.

The point is that you don't want to float bonds with people who don't want the bonds. If Morgan's Trust takes on the bonds or the teamsters take on the bonds and they intend to hold them to term but if you flood the market with bonds the tendency of these companies will be to discount them and to sell them. I think the Government is well aware of that problem and I think the Government is going to be careful of that problem. But I suggest to you, Minister, that as far as the lack of fairness is concerned, take Pennzoil for instance, Pennzoil can do far better things with their money than invest in Saskatchewan Potash Corporation bonds. They don't want to invest the money in potash corporation bonds. They don't want to invest their money at prime lending rate. They can do better than that. Virtually anybody who wants to invest in Canadian bonds can do better than that. Everybody can put out their money at 11¼ or 11½ per cent. New Brunswick, yesterday, brought out a bond at 11¼ per cent. Calgary Utility brought out a bond last week at 11¼ per cent. SUMA brought one out at 11½ about a week ago. Now what I am suggesting to you is that it is an unfair provision in 55 and 56 as the Member for Lakeview just said. I was suggesting in second reading that it was a dangerous provision for the Government but it's unfair as well. It's unfair to companies

who don't want to hold PCS bonds. Now, how you can justify the unfairness is almost a rhetorical question. I don't think you can justify the unfairness. I think the best answer for the government would be, we hope that we won't have to flood the market with bonds because we know that that would not only destroy the credit rating of Saskatchewan by flooding the market with bonds that people don't want but it would also destroy in some ways the lending potential of this country. If you want $1 billion or $2 billion of unwanted bonds in the hands of various international multinational companies the effect will be that they'll just flood the money market with them. That would be bad for the Government of Saskatchewan, bad for our ability to borrow but it will also be grossly unfair to these companies and the last thing that's unfair about it is if you wanted to have a Section 55 and a Section 56, you would have included that fact as one of the provisions in 45, just completed a trial or it concluded with the judge saying, trying to settle things, fine, it's going to be $2,500, not very much money and the man said I can't pay that now. I've got to pay it over the next three years. The judge said fine, I'll be $3,000 with the ordinary interest rate payable over the next three years. Now my point is that repayment terms are always something that you will consider in terms of compensation. A thousands dollars in your hand is a lot better than $100 a year even with appropriate interest over the next ten years. Anyone would concede that if the Government really were trying to be fair and I suggest that you are not trying to be fair, you're just trying to appear fair. If you were really trying to be fair, you would have included 55 and 56 in Section 45 and you would have said to the expropriating authority, the QB judge and if the Government indicates that they have to pay on time, then you can consider that in terms of value because it may be that if they're paying with bonds at the prime lending rate that another 10 per cent or another 15 per cent was appropriate.

Mr. Bailey: — Mr. Chairman, the Hon. Member will remember me asking a few days ago in regard to debentures and bonds and so on and I agree with the gentle Member who has just spoken. There's a point here. This Section 55 and 56 as it now appears, would the Minister not agree that somehow these two sections could well hinder negotiations on the part of the corporation. As I read this, "may at the election of the corporation" the corporation deciding the 30 per cent. Now obviously if a company is only going to be getting 30 per cent cash and they have to take the remaining part for their assets in bonds, it could well drive the price of the asset up. They may not want the bonds and by not wanting them, make the costs of the asset that much higher.

Mr. Romanow: — . . . Mr. Chairman, I would that the Member should not confuse this section with negotiated agreements, negotiated agreements imply that. You negotiate something and you agree to something on all sides.

Basically Section 55 is dealing with an arbitrated value, expropriated value. I don't think I need to respond too much to the Member for Wascana about that. I don't think that the province of Saskatchewan has any history of flooding the markets and the bonds and I don't think there will be that danger. I agree with him that it should be something that we should look at very carefully before actually exercising it.

Mr. Malone: — Further to this section, and correct me if I am wrong, the Potash Corporation of Saskatchewan can decide to, in effect, pay all the cash to the creditors and leave the company strictly with bonds. It has that option, does it not?

Mr. Romanow: — Mr. Chairman, I think the Member is right in the reading of the law. Again, the Member is right on many aspects of the law, after all he is a very competent lawyer. I think the Member is right in this area, but I don't know the consequence that follows from that. I suppose the Member will suggest that in theory what could happen is that the company gets the bonds only, but I don't know any other practical way of wording the section to allow the types of combinations which may be necessary, depending upon the degree of secured creditors, the amount of the secured creditors, there may be some large amounts, the amount left to pay to the potash companies and the like.

Mr. Malone: — Well, I am not a draftsman but surely it would be an easy thing to bring in amendment just saying that no owner or owners or secured creditors will receive less than 30 per cent in cash.

Mr. Romanow: — The other protection is the 30 per cent cash situation. I agree that one only partly covers it. I think again, I just don't think that this is going to arise as a fault and we have no amendment contemplated on that basis.

Mr. Malone: — It can be used as a very heavy stick to punish somebody if the corporation so chose, and I am not suggesting they would, but they could go to a creditor and say, well you haven't co-operated very much in these hearings; we don't like the point of view that you have been taking, so you are just going to get your compensation entirely in bonds. You are going to have to wait 10 years to get paid off in full.

Mr. Romanow: — I think, and I may have misled the House somewhat and the Hon. Member, but the last statement is not quite so because it does say in subsection (2) "Where the corporation elects to pay, etc. "the amount paid in money shall not be less than 30 per cent of the compensation to which the person is entitled." I think that will require at least a 30 per cent payment. The balance might be in bonds so that nobody will be stuck with a total bond situation, if the section should be applied.

Mr. Malone: — I am not sure that I agree, but I won't belabour it. If you talk about other evidence of indebtedness in the same section, surely you are not suggesting that the Government can just write a promissory note or something along that line, to discharge its indebtedness.

Mr. Romanow: — I think, Mr. Chairman, that the Member is correct. The evidence of indebtedness will be the bond. I can't have asked why did we put that in there and the only answer is out of an abundance of caution. There might be some other evidence of

indebtedness. I don't think that in practical terms that that is the case, so the Member's question is, are we contemplating some other evidence of indebtedness and the answer is, no.

Section 56

Mr. Malone: — No. Surely, again, the Government is taking a one-sided position of paying the least amount of interest that they can possibly make seem reasonable. I suppose you could have set an arbitrary rate of legal interest, but you probably didn't have enough courage to do that.

Why would you not at least pay the going rate of interest, rather than prime?

Mr. Romanow: — Mr. Chairman, I again have to take some advice on this matter, but I am advised that the going rate, you have to apply the going rate to something. Yes, you could fix it at some level like that. It was just a judgment call, a policy decision that the best level of indication of payment and the fairest rate of all was the prime lending rate as marked by the Royal Bank.

Mr. Malone: — Again, and I could belabour the point, but that surely doesn't wash. The reason that is in there to get off the hook as cheaply as you can. You are afraid to put it any lower than prime so you felt that you could make it look a little bit fairer, so don't tell me that it is reasonable or anything else. That is nonsense.

Mr. Merchant: — Mr. Chairman, I wonder if the Minister would inquire of the Minister of Industry and Commerce as to what the prime is. What is it in Saskatchewan, about 7¾? Whatever you are paying, Jack, minus about 6 per cent. You can figure it out that way.

Mr. Romanow: — Mr. Chairman, I am not sure exactly what the prime rate is. I think it is at 9 per cent. All I am telling you that the best information offhand, we will have to check it out, some are 8¾ to 9 per cent, I suppose.

Mr. Merchant: — My point is, I think it is about 7¾ per cent and don't forget the prime lending rate is different from the rate that a bank describes as the best rate they will give to their customers, the preferred customer rate. And that is the kind of best rate that most customers in Western Canada get. When you talk prime lending rate you mean one month for General Motors. Now my point is that you have to quantify the difference. Don't let there be any misconception in this House but that you are trying to take the potash companies for about 3½ per cent. The current rate that the Saskatchewan Government could get floating a Potash Corporation of Saskatchewan bond, I don't think you could float one for 11¼. A Newfoundland bond that I mentioned to you a few moments ago, that is at 11¼ fully guaranteed by the province of Newfoundland is selling at a discount, selling for 98.

Mr. Messer: — Where are you going to float it?

Mr. Merchant: — I don't know. Obviously they are going to float it in the United States to be different. But what the Minister is suggesting is we are going to compel them to take a Saskatchewan bond, a floatable bond in this province, in our money markets. You give them a Saskatchewan bond that would be floated and discounted here.

Let there not be any misconception about the fact that what you are doing is you are sticking it to the potash companies for about 3 per cent of 3¼ per cent of 3½ per cent.

Mr. Romanow: — Mr. Chairman, I think that we have to be awfully clear here as to what the Hon. Member suggests because, again I stand to be corrected, if one said a detailed study of what over the timeframe of the last 10 or 15 years actually the people of Saskatchewan have had to pay on similar indebtedness of this kind. We have never had to pay beyond the prime rate, or if so, such a small amount. But the Member says, 'who cares?' Obviously he doesn't care, because what he is suggesting that we pay 2 per cent more than we have ever had to pay on the market before.

Mr. Malone: — To whom?

Mr. Romanow: — To the potash multinational corporations. That's who he wants the 2 per cent more to pay to. We have never had to pay that interest in any other indebtedness that we floated, that we have gone to the market on. The people of Saskatchewan have never had to pay very much more beyond the prime rate. But that is not good enough for the Member for Wascana. He wants the potash companies to get prime rate plus 2 per cent, something that we have never done before, plus 3 per cent now he indicates. So what he is doing is he is making out the case to why the potash corporation should get more money. Now let's be very clear about that. And that is his view as to what should be the case. Okay, he can argue that and the multinational potash corporations can argue about that, but as far as I am concerned, I think that the people of Saskatchewan should be paying on the interest rate to the potash companies what they have been paying to everybody else, every other indebtedness over the years, and that is the prime rate.

Mr. Merchant: — First, let me say that I am not suggesting that Section 56 should say, the potash companies should get prime plus 3 per cent. I wouldn't use those terms, I wouldn't use prime plus or prime. If I had been drafting – and I wouldn't have drafted such a Bill, but if you were trying to be fair, if you were trying to be fair, you would have had the interest rate decided by arbitration, because there are times when prime is what the province of Saskatchewan would borrow for and there are times like now, where the province of Saskatchewan would be borrowing for prime plus 3 to prime plus 3½. To turn it around, you say that this is a fair Bill, that what the potash companies are going to get is what they would get with a willing buyer and a willing seller. What the Minister is suggesting is you would reach the point between that willing buyer and willing seller,

where you would sit down and say, now what about the interest rate on these bonds? And the willing seller would then say, well I want 11¼ per cent, that is the going rate and I am a little nervous about taking 11¼ per cent from the province of Saskatchewan anyway when I can get Calgary Power for the same price. And you would say, according to your logic, you would then look at them and say, gee, the province of Saskatchewan has never paid more than prime before. And then that willing buyer would say, oh, well you have convinced me, I will take the 7¾.

Mr. Romanow: — The Member tries to make his point and I think he has made his point, very clearly. That is on what he sees the rate of payment should be to the potash corporations. In a sense he is talking in terms of making this, not compensation, but in a sense a form of investment payment to them. That is the position that the Liberal Party wants to advocate in this section, so be it. That is your point of view, it doesn't have to be the point of view of the Government. And you have made your point.

Mr. Malone: — If you want to protect the people of Saskatchewan from indebtedness and from possible bankruptcy in the years ahead you wouldn't have gone ahead with the Act. If you want to protect them all the way along, I suppose the ultimate thing to do is say, no compensation, we are going to expropriate with no compensation. But don't come in here for 43 days or whatever it has been and tell us how fair you are to the potash companies; what a good deal you are going to give them and then at the same time say, Ah, we will decide what is fair. We are not going to let the potash companies decide what is fair, the people of Saskatchewan what is fair, we are going to decide what is fair. Not even the arbitration board can decide what is fair.

So don't try and sell that to us because, again, it doesn't wash.

Mr. Romanow: — Mr. Chairman, the arbitration argument, the arbitration board deciding, is really a red herring. Those are two different procedures that we are talking about. One is the determination of the compensation amount, the other is the method of payment of the compensation amount.

When we say that we should be paying something above prime rate, on a guaranteed basis above prime rate to the potash companies, let us be perfectly clear what is being said. That the people of Saskatchewan should be paying something more to the potash companies than they have ever paid in the history of this province even under a Liberal Government in other indebtedness, other people with our bonds. That is what is being said. You can slice that anyway that you want to slice it, that is the situation.

The Member can make all sorts of comments on that, but that is his point. And when he spoke to it the last time around he slid off and said, but the arbitration should decide that. Look, we have tied up their money, under the bonds we are paying them a fair rate of return, a prime lending rate of return for tying up

their money with the Government of Saskatchewan, which is what we have always paid in any other operation. You ay that we should do something extra. Well, okay, I hear your argument but I don't accept it.

Mr. Malone: — Is there a current issue of Saskatchewan Savings Bonds and if so, what interest is being paid on it?

Mr. Romanow: — No.

Mr. Malone: — What was the last issue? What was the interest on it? Was it prime? ON the last issue of Saskatchewan Savings Bonds did you pay prime interest rate?

Mr. Romanow: — Mr. Chairman, I would go back to the records but I think you should ask the financial critic and you boys are the ones who are so knowledgeable about financing and about the high finance of debentures and bonds and prime rates. You tell us how much they paid and if you tell me that they paid more than that then I want the Member for Milestone to tell us.

Mr. Merchant: — What the Minister has tried to do in bringing the red herring before this House of what has been paid in the past is to suggest that willing lenders, who have agreed to accept prime, when prime was the going rate for lending should now be equated with unwilling lenders. That is the point of argument over 55 and 56. These are unwilling lenders. As the Minister well knows, in any business deal between a willing buyer and a willing seller, the terms of payment are crucial. When the Minister says this should not be considered by the arbitration board, again, it is a red herring. Because the Minister well knows that any willing seller or willing buyer are going to have that matter considered. They are going to know the terms of payment.

Now, prime is a bad thing to use as your lending rate. Because there are times when prime is higher than the going rate. I've borrowed money at 11 per cent when the going rate was 10. And there are times when prime is well lower than the going rate in the bond market. We just happen to have a time when prime is 3½ per cent of 3 per cent below the going rate for Saskatchewan bonds. What you are doing with 55 and 56 is you are arming the Potash Corporation of Saskatchewan in the name of fairness, with the opportunity of floating bonds which will immediately be discounted by perhaps as much as 10 per cent. You are arming them with the vehicle which they will use in their negotiations.

It is one thing for the Government to talk about how they want to be fair. Let's talk about what George Taylor is going to do when he sits down to work out a deal. Let's talk about that. If you don't think that George Taylor isn't going to find his eyes to Section 55 and 56, then you stopped practising law with him at too early a time. Because you didn't learn enough about him. He is a man who is going to pick out those kinds of sections and beat them into the ground.

If you want to talk, as my colleague has said, about being fair, be consistently fair. Or if you want to just come in and

say, yes, we are sticking it to them, or we are doing it for the good of the people, you seem to justify everything by saying it is for the good of the people, then say that. At least present a consistent argument when you come before the House.

Section 56 agreed to.

Section 57

Mr. Malone: — Again, let me point out if it isn't already apparent that the potash company of the secured creditors will have to wait for at least ten years to be paid in full at an interest rate less than the going rate. That is what this section says. But let me ask you this, Mr. Minister: — is there anything in this Act that stops the Government from coming in in ten years or five years or nine years and amending Section 57 saying, strike out the word "ten" where it appears in 57(b) and substitute the word "twenty"?

Mr. Romanow: — Mr. Chairman, there is nothing in the Act which says that a government, even the Liberal Government if that day should come about, wouldn't move in and strike it out and put it down to two years or one year, or ten years or whatever the figure is. As the Member knows the Legislature is free to make such amendments as may be needed from time to time. That is the answer to the question.

Mr. Malone: — I suggest to you though that there is more to the answer than that. If things don't come about the way you have said they are to come about, and if the demand for potash drops or the price drops or if you face stiff competition from Russia or other places, you will find that you are not in a position to make these payments fall due. The only alternative that you have is to come in and do something exactly like that. If you didn't do something exactly like that, if you were the Government, which is unlikely, you would be in dereliction of your duty.

Mr. Romanow: — Mr. Chairman, as the Hon. Member will know, when a bond is issued of this nature, it would be, I suggest, inappropriate if not what other sanction one might place on it, to come in and extend the term or extend the terms and conditions of it. And for a number of the reasons the bond may have been traded maybe in other people's hands by now, so I am not sure how you could follow through on it at that stage of the game if it has passed through three or four holders in three or four years time. Apart from the fact that whatever the Members will say or have said about the Government's reputation or the province's reputation on the money markets, I think that is also a very important factor which all governments must be concerned about; certainly we are and we think that would act, in those hypothetical terms, that would jeopardize our relationships, long-standing and short-term on this basis with the money market as well.

Mr. Malone: — I am not suggesting it's something you want to do, or obviously wouldn't want to do it because you destroy the credit rating of the province which happened in the '30s not just here but everywhere else, but I'm suggesting to you that you may have to and if you face the position of bankrupting the

province or delaying payments of the bonds, that's exactly what you would do. Just strike out the word 'ten' and put in the word 'twenty' or 'fifty' or whatever.

Mr. Romanow: — I don't know, hypothetically speaking, I suppose it's possible but I don't think it's probable and in any event as a province I think the issuance of this new sort of amended form we couldn't afford to do; because we would need if we were in that type of financial situation enough money to keep the other operations of the Government going on a day-to-day basis on normal financial requirements. I just don't see that as a practical alternative.

Section 57 agreed to.

The question being put, Section 58 agreed to.

Section 59

Mr. Malone: — Mr. Chairman, just a couple of comments, I hope that in due course the head office of the corporation will be decided on so service can be made, but on serving creditors or owners outside of the province I suggest the method of service is inappropriate in that if they are outside of the province to begin with, how would they be expected to get a copy of the Saskatchewan Gazette, the Leader-Post or the Star-Phoenix? Surely there should be something in there that would at least put the onus on the Government or the potash company to make some attempts to effect service outside the province either personally or by notice in the newspaper in the town where the head office is situated or whatever.

Mr. Romanow: — Mr. Chairman, I would be pleased to get some suggestions from the Member as to how we could improve this section and perhaps the Member would like to get up to give us some suggestion as to how we could improve the service on a non-Saskatchewan creditor but I think generally these provisions are adequate unless you would like to make some other comments.

Mr. Malone: — Try registered mail to the office in Toronto or wherever it is. Try by personal service, the rules of court have all sorts of provisions for effecting service outside the province.

Mr. Romanow: — We have done this in subsection (6), notice may be sent by registered mail. It's proved by affidavits, etc., the methods are set out. If the Member will just bear with us, we're there.

The question being put on Section 59, it was agreed to.

Section 60

Mr. Chairman: — We have an amendment to Section 60. Strike out Section 60 of the printed Bill and this is moved by the Member for Rosetown-Elrose (Mr. Bailey).

Mr. R.H. Bailey (Rosetown-Elrose): — I cannot see at this particular time dealing with this Bill why this Government could take upon itself legislative authority or legislative power that falls into the same realm as the War Measures Act or Acts similar to this. I cannot see, Mr. Chairman, why this particular section, in the way which it is worded in this particular Bill. Why it is not considered even to the Hon. Members opposite as being a very, very dangerous piece of legislation to have on legislation in any Bill in Saskatchewan. Certainly any group of people interested in our province, any group of people interested in doing business in our province, looking at Bill 1 as we are now, and seeing this particular section in the Bill, is enough to drive any investment away from this province forever. When I am finished I'd like the Hon. Member, the Attorney General, to give in precise language the reason why it is necessary to have this particular section in the Act. The reason why they think that they cannot complete this Act or why this Act is null and void or whatever terms he may want to use without this very dangerous particular section there. I consider this particular section of the Act, Mr. Chairman, to be perhaps in the same category as the Act which was passed during the War – or the Act which was passed during the October crisis giving extraordinary powers, extraordinary powers at a time when extraordinary powers certainly are not necessary, particularly when the Government is planning on going into a business venture as we know that they are. I would strongly urge all Members opposite, Members of both sides of the House to really take a look at this Act. Really read what it says. Take the full meaning of the Act and surely the Attorney General will agree that this particular section is not necessary to the working of this Act.

Mr. Romanow: — Mr. Chairman, the Member has said that I should precisely set out the reasons for Section 60. I can do no better than refer him to my second reading remarks, which I think as clearly as possible set out the rationale for Section 60. If I may repeat, I said then Section 60 I acknowledge contains fairly far-reaching powers. Under it, the corporation can exercise certain powers to inspect property or documents in respective mines or mining properties, even before a vesting order has been made. That is, before expropriation. We considered this very carefully, Mr. Speaker, we felt we could not rule out the possibility of the lack of co-operation in providing information on the part of a company whose assets we were considering acquiring and that we could not responsibly commit large sums of taxpayers' money without having adequate information to make a sound business judgment as to whether or not to acquire that mine or mining property and if so, the approximate value of that mine or mining property. To put it bluntly, Mr. Speaker, we cannot afford to be put in the position of acquiring property without an adequate base of information about that property. I think that is about as concise a statement as can be made as to Government's reasons for Section 60.

Mr. Merchant: — May I again say as we did on Section 45 very briefly. We will support the amendment though I think it would be hard to characterize the amendment as a very innovating or thought-provoking amendment. But again, as with Section 45 anything that does damage in a Bill that we don't view as a very positive

step in legislation for Saskatchewan we will support and for that reason we will support the amendment to delete Section 60.

Mr. Bailey: — Mr. Chairman, how can the Attorney General in repeating what he said, and I remember distinctly what he said with this particular section in the Act, how does he hope to gain any measure of an agreement, compatible agreement with a piece of legislation, this particular Section 60. There is no question that the power that is given the Government here you may not even be wanting to make a purchase of this particular mine. The Government could just quickly send out as it says an officer or agent and very quickly get information for all mines they may not even be in the interest to purchase the mine. The power that it is giving is too far, it's too vast and furthermore it's too dangerous. You don't need all of it, if you are going to go into the business of negotiating with the mine, surely you are not going to use measures as strong as that contained in Section 60.

Mr. Romanow: — Mr. Chairman, I don't want to prolong this because we've been around this hoop many times, I just want to read to the Member about how Draconian a provision he would have us believe this is, about a section that is in The Expropriation Act of Alberta. This is a matter of interest and I think he would be interested in reading this. And it reads, Section 61, it's pretty close to Section 60 and just note:

> Whether or not expropriation proceedings have been commenced by registration of notice of intention to expropriate, the expropriating authority may, after making reasonable effort to give notice thereof to the person possessing land enter by itself, or its servants or its agents on any Crown or other land for the purpose of (a) making surveys, examinations, soil tests, other necessary arrangements to determine locations of proposed works, description of land, anything that he may require in connection therewith, and an appraisal of the value of land and any interest therein.

In relation to the surveys and examinations and locations of it, all I'm saying to the Hon. Member is that he says he doesn't accept our reasoning. Okay, I know he doesn't and neither does the Liberal Party and as I say, we've been over this hoop many times. I invite the Member to say whether you agree with Bill 1 or you don't agree, and I know you don't agree. We are at the stage now where hopefully it will become law, from our standpoint. How could we reasonably be asked to take the chance of committing what could be millions of dollars of taxpayers' money without at least, even the most rudimentary in the case of a totally unco-operative mine, an examination of the assets in the operation. I just don't think the Hon. Member, he can say whatever he wants, he can reasonably say that we shouldn't have that right.

Mr. J.G. Lane (Qu'Appelle): — Mr. Chairman, with all respect to the Attorney general, he more or less passed over, in your second reading remarks, on the powers basically Sections 60-64 inclusive. I've got several questions, first of all, what precedent do you have for the particular power set out in Section 60?

Mr. Romanow: — Some of the precedent is as I've partly read from The Expropriation Act of Alberta, some comes from The Expropriation Act of Canada and while there is not a total identical section under Section 35 of The Highways Act in Saskatchewan there is a similar provision there. It's not a totally identical provision with anything else, I've acknowledge that in the second reading.

Mr. Lane: — I think the Attorney General will admit that they are in no way comparable. I get slightly confused by your remarks because in your second reading remarks, you say that they give some very substantial powers to inspect the premises. In reality, what is your understanding of all the powers that are set out in that particular section?

Mr. Romanow: — Mr. Chairman, the section is clear enough. I can't put it any more succinctly than reading back the section, because I think that it, in plain English language, sets it out, and I would subscribe to that wording.

Mr. Lane: — Will you agree that, first of all, it's obvious that even before a vesting order, it could be happening right now? That the powers of this Act . . . I'm sorry, when the Bill is passed, that at any time, the powers could be exercised. Would you agree that an officer or agent of the corporation, when he is authorized in writing, may at any particular time go into any building on a mine and simply enter the building at any time, day or night, and basically make copies, take surveys, do whatever he wants, basically?

Mr. Romanow: — I think the answer to that is yes, that's what the section says.

Mr. Lane: — I think you have actually given a pretty weak argument. I think the Attorney General is well aware of the powers under the Criminal Code of Canada, with regard to search warrants, and I would like to repeat what I said in my second reading speech, because the Criminal Code, the criminal law of Canada does not take search warrants lightly. A search warrant, first of all, basically a person must apply to the court, and there must be some reasonable grounds for the issuing of a warrant. It is not an arbitrary power. I have given examples that when a search warrant is issued, even after an application under oath that a crime has been committed, was being committed, that even when a search warrant was issued by a judge, if it was in a form that it left discretion to the exercising officer, that the search warrant was thrown out by the courts, as being insufficient. Now, wouldn't you agree that there is total discretion in this particular section, for an officer of the corporation?

Mr. Romanow: — Mr. Chairman, under the Criminal Code provisions, to some extent what the Member says is right. I think in the bulk of cases it is right. The Member will, of course, also acknowledge, just strictly on the Criminal Code cases, because we are arguing on that level, that in food, drug, and

narcotic control, there are indeed very wide powers for search and arrest and everything else, without any justification whatsoever for almost anybody. We are dealing also, with Section 61, I think concurrently 60 and 61, because 61 talks about the rights of people to go in and to check books and the like. I have a very long section from the Income Tax Act of Canada, and this is a paraphrase, but in effect it authorizes any Minister to audit or examine books and records, examine property provided by an inventory, require the owner to give reasonable assistance in the audit – you even have to help the auditor against your own interest; seize papers, documents, etc., in the course of the audit, and those are very, very wide-ranging powers which apply there, so it is not totally without precedent.

Mr. Lane: — I am very glad that you raised those examples, because the examples that you gave presupposes strong evidence for an offence being committed under those Acts, and you can no way say that the powers given in Section 60, and for your argument's sake, that there is a wrong being committed or that there is an offence being committed. This is straight search and seizure, without any legal protection whatsoever for the potash company.

Mr. Romanow: — I am looking at the words of the section of the Income Tax Act and I, with all due respect to the member, don't see how he can say that that section is predicated on an offence, because if you look at the wording, Section 231 – Income Tax Act of Canada:

> . . . any person, thereunto authorized by the Minister for any purpose related to the administration, or enforcement of this Act, may at all reasonable times . . .

and on goes the situation. I don't see how that Section 231 is predicated on any offence. The Income Tax Act, the Hon. Member will agree with me, does have offences and penalties, but it also does not have offences and penalties. Section 231 allows the income tax officer to come into your home at any time, and do all of these things and check it out and why is that such an inviolable situation?

Mr. Lane: — Well, again, I don't think the Attorney General takes his argument seriously. The offences are basically different, the Acts are totally different. Protection of the revenue for the Federal Government, even accepting the Attorney general's argument, is a totally different thing than a government expropriating a private property. I ask you again, why would you bring in this power that presupposes, I say, at least by implication, that somebody is doing practically a criminal wrong to the people of this province, that would clause you to bring in a particular section like this.

Mr. Romanow: — Mr. Chairman, I have stated the reason and the policy of the Government as to why we bring in Section 60, but the Member is wrong, with all due respect to the Member, to say that Section 60 is predicated on the assumption of a criminal wrongdoing or any form of wrongdoing. That is not the predication of the section. The section is predicated, indeed,

on the policy that I have enunciated, that is to say, that if we are about to expropriate or to acquire a mine, in the case of a totally unwilling, obstructive corporation, we must have access to look at the mine site, to see if there is any water or not, and some records that may apply to that. We have to have this, otherwise we would be committing, conceivably, hundreds of thousands of dollars of taxpayers' money, just by taking a shot in the dark. It is predicated on that and that only.

Mr. Lane: — Would the Attorney General not agree that the law on search warrants is such that, first of all, it is not an arbitrary right, or an automatic right, to get a search warrant that certain things have to be proven; that the law on search warrants is such that search warrants are not to be used for a fishing expedition. That is the law in Canada, I think the Attorney General will agree that the search warrants are to used for a very limited, specific purpose. Why would you go beyond the law, basically behind the search warrants, if it is not to be a fishing expedition and allow a fishing expedition, as in this case? Surely you had a judicial standard you could have followed.

Mr. Romanow: — Well, again, Mr. Chairman, we are looking here at, in my judgment, two different types of operations. When you are looking at a search warrant with an allegation of criminal wrongdoing, etc., perhaps an argument can be made. I am not sure that, as I have pointed out on food and drug and narcotics, that that is indeed the case, as the Member says, because in fact I think even under The Liquor Act to the province of Saskatchewan there are very wide powers or at least used to be very wide powers.

Mr. Lane: — . . . a peace officer?

Mr. Romanow: — Yes, all right, well a peace officer. Okay, a peace officer is somebody different, but in any event there are these wide powers and I come back to the Income Tax provisions of Canada, some of the precedents there; I come back the Excise Tax – Excise Tax has got a section which is the same in import, in fact, if you look at that Income Tax Act situation, there it is. Now you could direct your question, why does the Income Tax Act have that power? Why? Because in the interest of the public policy obviously there could be some subterfuge or something of that nature. We are not involved in it here, in the subterfuge, we are not alleging that; but we are alleging that in order to have the best possible information before us, we really have to have access to all the documents, to all of the mine sites, if some documentation is relevant to it.

Mr. Lane: — Well, would you agree, under the provisions of this section, that an officer or agent of the corporation would, assuming authorization in writing, could go into any building or property used for the marketing, processing, production, etc., of potash, any single building, whether it is attached to the mine site or not, at any time? Would you agree to that?

Mr. Romanow: — I think that that is

essentially right, like it is in the Income Tax Act.

Mr. Lane: — Would you agree, too, that if a particular mine employee had documents in his home that could be used for marketing or processing or any of these other things, that an officer or agent could go into his home and get the documents?

Mr. Romanow: — I don't agree that it's that wide because, and again I can't put my section on that mine or mining, Section 60, in writing by the corporation to do so, may enter into and upon any mine or mining property, and a), b) do those things that we are talking about. And then when you go back to the definition of mining property, under subsection (h) of 2, you will see there that the definition is nowhere near as wide as a definition of assets is, so that there is a limitation there.

Mr. Lane: — With all respect to the Attorney general, it says buildings, mining property is defined as "buildings and equipment used or capable of being used for, or in connection with mining, refining, processing, production" and I say to you that an individual mine manager's home with any documents or any mining official with any documents, is capable of being used, would you not agree?

Mr. Romanow: — Well, I don't agree to that, and I think that is stretching the section to try and make the point that the Hon. Member does.

Mr. Lane: — Mr. Chairman, you can accuse me of stretching the section, but that's pretty weak defence to an argument. The fact is that this particular section stretches as wide and as far as any other section possibly passed by the Government opposite in any other Act. Would you have any objections, Mr. Attorney general, in having court authorization to undertake the matter set out in subclauses (a) and (b) of 60, prior to an officer going into these properties?

Mr. Romanow: — Well, it's not a matter of having an objection, it's the preference. The preference is as stated in Section 60, that's our preference.

Mr. Lane: — Why do you object to prior court approval for the corporation to make applications to the court and show to a court that there are reasonable grounds with the particular evidence, and specify the evidence being looked for? It is necessary for the acquisition of the assets of an owner as defined in the Act. There should be nothing wrong with that; it certainly shouldn't offend any sense of justice.

Mr. Romanow: — Mr. Chairman, I think I have answered this in one form or another, and over and over again, from search warrants to things of that nature. Again, I can only say that the reasoning behind the Income Tax provision, Section 231, the same questions could be directed by the Hon. Member to the federal

authorities. Why not go to the court under 231 which gives these agents of the Minister, etc., some very wide powers as well? The preference here is for a number of reasons, as stated in the Bill.

Mr. Lane: — Well, you know, I think the people of Saskatchewan are probably getting as sick as the Members on this side of the House with always referring everything to Ottawa. May I remind you that if you are the Government it is your legislation that we are discussing today. I am going to propose the following amendment, seconded by Mr. Merchant, that Section 60 of the printed Bill is amended by adding thereto, new Sections 60A and 60B.

Section 60A, notwithstanding Section 60 of the printed Bill:

> The board entering into and upon any mine or mining property, the Corporation shall make application before a Provincial Magistrate, for an order to:
>
> > a) survey and take such levels of land, and take such borings, take such samples, sink such trial pits, make such tests and examination of real or personal property;
> >
> > b) make such inquiries or investigations and examine and make copies of any computer date, agreements, books or records, engineering drawings and sketches or other documents;
>
> and if the Magistrate is satisfied, upon oath, that there are reasonable grounds for belief that such evidence or information is necessary for the acquisition of the assets of an owner, pursuant to this Act, he may make an order authorizing the person named therein to undertake any or all of the activities as set out in subclauses (a) and (b) of Section 60.
>
> Section 60B, an order issued under 60A, shall be acted upon, only by day, unless the Magistrate specifically orders otherwise.

I think the Attorney General is well aware of the reasons for Section 60B, which is designed to bring it in compliance with the Criminal Code of Canada, which prohibits the exercising of a search warrant, except by day, unless specifically ordered otherwise. I so move. Would you give a copy to the Attorney General.

Mr. Chairman: — Order, please. We have the motion, moved by the Member for Qu'Appelle, seconded by the Member for Wascana that Section 60 of the printed Bill is amended by adding thereto, new Sections 60A and 60B.

> Section 60A, notwithstanding 60 of the printed Bill, before entering into, and upon, any mining property, the Corporation shall make application before a Provincial Magistrate, for an order to:

a) survey and take such levels of land, and take such borings, take such samples, sink such trial pits, make such tests and examination of real or personal property;

b) make such inquiries or investigations and examine and make copies of any computer data, agreements, books or records, engineering drawings and sketches or other documents;

and if the Magistrate is satisfied, upon oath, that there are reasonable grounds for belief that such evidence or information is necessary for the acquisition of the assets of an owner, pursuant to this Act, he may make an order authorizing the person named therein, to undertake any or all of the activities as set out in subclauses (a) and (b) of Section 60.

Section 60B, an order issued under 60A, shall be acted upon, only by day, unless the Magistrate specifically orders otherwise.

Mr. MacDonald: — Mr. Speaker, I want to say a few words about these particular four sections of this Act. Mr. Speaker, these four sections don't have teeth, they've got fangs.

Some Hon. Members: — Hear, hear!

Mr. MacDonald: — Mr. Speaker, it is an example, an unbelievable example, if any Attorney General stands on his feet and compares it to the Income Tax Act. The Income Tax Acct has a specific function. It operates when there is a suspicion of a crime, and is there to ferret out criminals. Mr. Speaker, this Act has got the exact opposite. It's got its intention to cheat the potash mines, and the real culprits are the Government of Saskatchewan of the NDP office, Mr. Speaker.

Some Hon. Members: — Hear, hear!

Mr. MacDonald: — And what really bothers me, Mr. Speaker, is we stand up here and ask this Legislature to approve these four sections in the name of justice, in the name of justice. They are an example of the most oppressive nature of this entire Act, it's unfair, it's one-sided; I suggest to you that Hitler would blush at this kind of section. Mr. Speaker, it's the worst kind of Gestapo tactics that I have ever seen. And I really mean that. And to ask Members of this Legislature or on this side of the House to stand up and support something that we'd be literally ashamed of and I say would be ashamed of. And I suggest to the Members opposite they should be ashamed. You know what it really does? For example, it could give the Saskatchewan Potash Corporation the power to go in and examine all ten potash mines, get all the market information, all the competitors' information, everything that they need to desire to invade the market, be competitive to undercut them and with absolutely no intention of purchasing those mines. The actual power to give any official of any kind or type or description the littlest individual could walk into those mines, walk into any office, seize any records is beyond the comprehension of the Attorney General.

What other expropriation Bills have that power? Or nearly as much. You've taken the worst features of every expropriation Act in Canada and compiled them into one single solitary package in these four sections of this Act.

Mr. Speaker, the amendment of the Member for Qu'Appelle doesn't prohibit you. I think that power is too much but if you do need some kind of authority, some kind of responsibility, at least that puts a check on it. At least when it demonstrates to the courts and to the judge, well then we'll have the ultimate responsibility for that decision. You will make him at least be cautious and recognize the responsibility of what the potash corporation is asking for.

This amendment is a good amendment and I'm going to say that of all the sections in this Act that I abhor and I'm sure the public of Saskatchewan abhor, is Section 60, 61, 62 and 63 and I would hope, Mr. Speaker, that Members of the Government and the Attorney General who is the administrator of justice in this province would take a very close look at these four sections except in a minimum the amendments of the Member for Qu'Appelle and I want you to examine what the amendments say. All they do is ask you to go before the courts. You can justify your position, explain it but when that judge makes a decision at least then you'd be following and according at least with some protection for the potash companies.

Mr. Speaker, it's another example of this entire Act and the Attorney General attempting to stand on his feet and cry fair play. If there is anything in this Act that demonstrates unfairness, the oppressiveness of this Act, it's these four sections.

Now, Mr. Speaker, surely to heavens when you turn around and you determine market value after taxes and then you consider these taxes and all the unfairness of these actions allowed in both Bill 1 and Bill 2, then you turn around and give yourselves this kind of power. It's a demonstration not only of the unfairness but it is a complete hypocrisy of the statements you made on the fair play and fair market value.

Another example. Why is it, when you go before an arbitration board that the Government of Saskatchewan or the potash corporation has no responsibility to put its records or their information. I suggest if you had to put on the table of this House or before an arbitration board the costs, the studies and the feasibility of the Bredenbury Mines and the whole future of potash in Saskatchewan and your involvement, it would have a very serious impact on the market value of that potash mine that you were attempting to purchase and for that reason, once again, it's a demonstration of the unfairness.

Mr. Chairman, I'll have more to say on this. I'd like to call it 5:30.

WELCOME TO STUDENTS

Hon. N.E. Byers (Kelvington-Wadena): — Mr. Chairman and Members of the Assembly, before we resume our duties in consideration of this Bill, I take great pleasure in welcoming to the Assembly tonight 45 grade 12

students from the Ituna High School who are seated in the Speaker's Gallery. They are accompanied by two of their teachers, Mrs. Mable Fleming and Mr. Bob Simpson. Ituna High School is actually situated in the constituency of the Hon. Member for Melville who unfortunately is not here today, however a goodly number of students from my constituency do attend this school. I hope to draw to Members attention that this is the second school from our area that has been in the Assembly today which testifies, I think, to the interest the people, at least in our part of Saskatchewan, take in public affairs. I want, on behalf of the Assembly, to join in welcoming this group of students to the Legislature tonight and to hope that their visit here tonight will be productive, informative and educational.

Hon. Members: — Hear, hear!

Committee of the Whole on Bill No. 1 cont'd.

Mr. Lane: — Mr. Attorney General, on the amendment that we gave to you, you'll notice that the proposed amendment doesn't take away from you any of the activities set out in Section 60. All that the amendment does is require the corporation to make an application before a provincial magistrate for an order allowing the officer of the corporation, if the judge decides that such information or evidence is necessary for the expropriation of the assets, he can then make an order that such individual undertake the activity set out in clauses (a) and (b) of Section 60. I think the Attorney General by his remarks this afternoon indicated just how severe the powers are that were taken, that are proposed in Section 60 of the Potash Nationalization Bill.

The Attorney General accused me this afternoon of extending the scope when I said that it allowed officers of the corporation to enter into any private homes of members of one of the potash companies or employees of the potash company if the house is capable of being used for marketing and processing, etc. The fact is that that is a power set out under Section 60. The powers being asked to be approved by this Assembly, I submit to the Attorney general, are the most awesome undertaken by any government in a time when no national emergency exists. We cannot accept, in the Opposition, an unfettered power of any Crown corporation or government agency which allows any official or officer to walk into any private property to take whatever records he so chooses. I strongly warn the Attorney General that to take such a power into the hands of the Potash Corporation of Saskatchewan is a dangerous precedent to say the least. We make it clear that there is another way. We did not take the approach of the Conservative Party to the left which said take away the power completely. We suggested by our amendment that there is another alternative and that is to seek the prior approval of the courts of the province of Saskatchewan. Such an amendment as we have proposed gives every right to the Government to undertake the activities it has set out, it's not going to be prejudice in any way, shape or form. But certainly the right of recourse to the courts will be maintained by our proposed amendment. I think that it's wrong for a democratic government to even come before the Legislative Assembly with the power which would allow the potash corporation employees to walk into any potash company building wherever it may be located and to simply make copies of any computer data, any agreements, make photocopies of any books or records of the potash company for whatever purpose and there is no limitation on the powers set out in Section 60.

We think it wrong for a democratic government employee to walk into any building of a potash company, no matter where it may be, and simply go in and take any documents or any engineering sketches or any engineering drawings simply by walking in at night or day if necessary, by breaking into the premises to simply go in and take whatever information that officer may require. We think it morally wrong for the Government to even propose such powers without any recourse to the court. I strongly urge the Government Members to realize that most of them haven't done so, to reread Section 60 because we have criticized in the past, the powers undertaken by the NDP Government to be able to close down any business for a period of five days with no reason set out. We have criticized in the past, your laws which allow you to really tell farmers basically whatever they can do if you ever decide to set up a marketing board or commission. To make no mistake, we will criticize and the people of this province will criticize if you determine to pass legislation which allows any Crown corporation employee or employee of the potash corporation to simply walk into any mining property wherever it may be located, break into that property if necessary, go in any time by night or day and take whatever document without restriction, we think that is democratically wrong. We've opposed but we have also, I think, very constructively given the alternative to the Attorney General of allowing him to do it and take these powers providing he gets the approval of a court of the province of Saskatchewan.

Mr. R.H. Bailey: — I want to speak to the amendment moved by the Hon. Member for Qu'Appelle and seconded by the Hon. Member for Wascana. Before I speak directly to the amendment, Mr. Chairman, not once but twice this afternoon during the session, the Hon. Member for Wascana made reference to my proposed House amendment, using such words as, unimaginative, not thought provoking, not innovative and so on. I'd like to assure the Member for Wascana that, while I respect his ability in this House that anything that he may have said this afternoon was certainly taken in bad taste and perhaps his hopes, if he has aspirations to the leadership very badly, and they certainly weren't taken in good taste and he failed very dismally to impress anyone on either side of the House.

Having said that, Mr. Chairman, if we examine the amendment that was moved by the Hon. Member for Qu'Appelle, I have to agree with him in that it certainly does take the sharp edge, if I may use those words, off of Section 60. I think it makes it a little more compatible, make it a little more easy to live with and we will be supporting the amendment.

Mr. Romanow: — Mr. Chairman, I think that it is incumbent upon me to just say a few words in response to what has been said and, like the Members before me, I suppose nothing new can be added. Their remarks have been made. I am somewhat sceptical, it raises some doubts in my mind when Members get up and they object so violently to provisions of this nature as a matter which is equivalent to the Magna Carta and other notable periods in our history and strangely can rationalize away powers which are as great if not greater which exists, say, in provisions like the Income Tax Act. I don't understand that other than the fact that I assume that because it's a Liberal Government that passed

it, it's all right. If it's an NDP Government that passes it, it's not all right. The devotion to principle is all right in some cases and not all right in other cases. As I say, perhaps that's something that can be sold in the Legislative Assembly, I don't know. Perhaps it's something that can be sold outside the House but I doubt it. I think that one has to be consistent throughout the piece and when you see these provisions that exist, the Income Tax Act of Canada, the Excise Tax Act of Canada, not identical but very strong in similar powers, in The Alberta Expropriation Act and so forth, I think that it puts an end to the myth that is being advanced in this area by some people.

Well, I think, Mr. Chairman, that I've said basically that before and the Opposition has said their other things basically before. I guess it's time to take a vote on this amendment.

Mr. Chairman: — All those opposed to the amendment, please rise. I declare the amendment lost.

Section 60 agreed to.

Section 61

Mr. Lane: — Section 61 allows any agent or officer of the Saskatchewan Potash Corporation to enter upon any unexpropriated premises and to make inquiries or investigations, examine any computer data, agreements, books or records, engineering drawings, sketches or other documents, and to determine the nature or whereabouts, or both, of any assets that are to be expropriated from the owner under this Act. Now, I think my reading of this particular section, and I'm sure the Attorney General's will be the same, is that it is a witch-hunt section. That, in fact, you are giving a statutory power to a Government employee to go on a witch-hunt, to find out whatever he wants, to determine the nature or whereabouts, or both, of any assets that may be expropriated from the owner under this Act. The individual can walk in.

Mr. Snyder: — Who said that?

Mr. Lane: — This is your Act, I hope you've read it, Mr. Minister of Labour, you should have, that's the power that you've undertaken in Section 61. That you can have a Crown corporation employee just walk in and make any copies and take any computer records, it's no doubt a witch-hunt section. It no doubt will be justified in exactly the same way that the Attorney General attempted to justify the previous Section 60, an argument that is totally irrelevant. I think that, again, access to the courts and a provincial magistrate, and I'm not going to propose a House amendment, because my House amendments on Section 61, 62 and 64 were predicated on the right of the potash corporations or their employees to have the protection of the courts, a right which was rejected by the vote we just had. I can't justify, and I am sure the Attorney General can't, the witch-hunt powers or activities that are condoned by Section 61, and we are certainly opposed to it.

Mr. Romanow: — Mr. Chairman, again here, in addition to all that I have said about the existing legislation on Income Tax Acts,

federal legislations, and so forth, which is equally applicable, and I trust the Member has registered his protest to the federal authorities about those provisions as well. I would like to also point out that this power can be used for what purpose? All of that is qualified by the words, 'to determine the nature or whereabouts or both, of any assets that have been expropriated,' that's what the power is limited to – to the nature or the whereabouts of assets appropriated on that power. It's not, as the Member says, a witch-hunt, one that is open to anything and anything that one would search for because that is the qualifying section with respect to subsection (1). Very narrow, very much narrower than if you would compare the equivalent provisions in the Income Tax Act, in the administration of that Act, the Minister or his agents have all of these very wide powers as well. So, we note the Member's objection and I hope the Member will not my explanation in defence of this section.

Mr. Lane: — A question of the Attorney General. On the power to examine computer data, that's not restricted to necessarily computer data that deals just with the potash operations. If the companies are linked to any computer, which may have a central computer used by other corporations with common programming, and this is not uncommon for financial records, that you would, by virtue of this, be able to, in effect, get into, or determine the programming for financial records of other companies, if they happen to be sharing the same computer or computer time. Is that right?

Mr. Romanow: — The answer is no, I don't see that. Again, I ask the Member to take a look. Unexpropriated premises in the province of an owner are the words in the first sentence or two. Why? Answer – to determine the nature of whereabouts, or both, of any assets that have been expropriated, and on the Member's example, unless there is a central computer data on the unexpropriated premises in the province of the owner, and it's related to the whereabouts of the assets expropriated, then he probably is right, but the way he structured the question, he's wrong.

Mr. Lane: — Well, I don't think that anywhere in Sections 60 to 62, inclusive, that the use of the word computer data are restructure in any way to computer data dealing strictly with the operations of the potash mine. In no way are they restrictive. You're taking an extremely unrealistic view of the words computer data, if you say that, my argument is not the case, in fact, if any potash company is using shared computer time with any other company which is not uncommon, either on storage of engineering data or financial or statistical data, then you would, in fact, have access to this information of other companies, and my question is do you agree with that, and if not, why not?

Mr. Romanow: — Well, I don't agree with that, as I have said earlier, because the answer to the Member's question is set out in the Act, in Section 61. It has to relate to the assets that have been expropriated. That's the relevant factor and that's a limitation factor, and I don't want to refer back to Section 60, because we have already voted on that, but even that has a

limitation to the mine or mining property and the Members laughed because they have not read the definitions of mine or mining property. If they did, they would know that they're very, very much cut down from assets, and of course, they know that, but if that's the position they want to take for political purposes, they can do it, and that's the answer that I have given to the House over and over again.

Mr. Bailey: — A couple of questions for the Attorney General. It's agreed and you have mentioned, that these people who are now operating the potash mines are in fact operating other businesses besides potash. Is that right?

Mr. Romanow: — The owners are.

Mr. Bailey: — The owners operating, oh yea, now, it's not conceivable, then, Mr. Attorney General, that during the time that an agent or an officer in his authority that is given under this Act, takes or secures from the property, documents or material which is not related in any way to potash, but could well be there for another part of the company's operation, not related to potash whatsoever? And, it may be highly documented and the company may not want it in any way falling into other people's hands. What recompense would the company have in that particular case?

Mr. Romanow: — The situation of the company is to, in t hose circumstances, to say, look, you have no right, I am refusing, and that's all there is to it. Because the simple fact is that it has to be to an asset expropriated. If it is a non-related asset or an involvement or a document to a non-related asset, say oil, for example, the official has no right to that type of information, because it is limited there, quite clearly. The Member opposite talked about a central computer data, well I mean that's naïve in the extreme to suggest that IMC, for example, would have the central computer data, which at the same time would have the computer data of Kalium or Silvite or of Central Canada Potash or IT and P. And if he says well, could it be true, well I say, I suppose it could be true, that's the answer that I would give to the Member.

Mr. Bailey: — Mr. Chairman, would the Attorney General agree that this is the area of confrontation, an agent or an officer of the company enters upon the premises, is going to seize certain documents because they are related to the operation, but there is the possibility and a very high degree of possibility that this particular company could well have a high degree of correlation in some other operation of theirs, in which they have, in fact, run them off on the computer together, or even have some future plans in an area outside of this province in the same field. Now, I have an idea that the officer or the agent, because it was related, I think there would be an area of confrontation, and I would question whether this Act on this particular – you know, if the agent is working under this Act, he would not seize the material, and therefore place the corporation at a distinct disadvantage in that they would have seized property which would in fact, have to be later settled in the court, and would develop into all sorts of

confrontation.

Mr. Romanow: — The person who so enters under this Section 61 will of course, I way the interpretation of it and in the explanation of the section, will have to do with assets that have been expropriated. And, to come to your example, specifically, if he should go in and obtain access or otherwise, contrary to that corporate officer's permission, the corporate officer says, look here, that particular document or asset is unrelated to the mine that you have already expropriated and this is a confrontation, the guy goes in anyway, I can't quite visualize how that would happen, but if he does that, then of course I would remind the Member that that officer is potentially liable for a civil action and damages, trespass, any other damage which accrues as a result of the acquisition of knowledge wrongfully so obtained without statutory authority. Police officers are finding themselves in that type of situation, very frequently, in an area which is not analogous, but a similar area with wrongful arrests, sometimes even trespassing, that type of a situation. There has to be some lawful authority for which they can exercise their powers. I say that lawful authority is defined by the words to determine the whereabouts of the assets that have been expropriated and otherwise and the documents, etc., have to be related to those words, which I say is a fairly narrow little power that is set out.

Mr. Lane: — I just frankly don't believe what I am hearing from the Attorney General. First of all, let's take his three arguments that he has just given. He says that it's restricted to the expropriated property, and he's narrowing it down and he's criticizing the Opposition for saying that we're reading it too broadly. And yet, in fact, in Section 60 it's not restricted to any expropriated property, and it's any computer data on the mine premises. You voted in Section 60 and it's not restricted in any way, shape or form. Then for the Attorney General to say that I'm in a land of make-believe, when in fact probably everyone of these companies is sharing or using a common computer with any one of its subsidiaries, which have no relation to the potash industry and are using the same programming, the same central data bank, for you to say that that is not the case is utter and absolute hogwash and I think a false and phony argument on your part . . .

Some Hon. Members: — Hear, hear!

Mr. Lane: — . . . and then for the Attorney General to stand up and say that the companies would have a right to compensation for breach of privacy, when in fact the Privacy Act introduced by that Attorney General says that it is an exception if it's authorized by law, which is precisely what you're doing here, takes it out of the ambit of the Privacy Act.

Some Hon. Members: — Hear, hear!

Mr. Romanow: — Now, I tell you, Mr. Chairman, one has to be so careful when one treads around comments of the Liberal Party, because if one says that a Member of the Liberal Party is in fairyland or make-believe land, all of a sudden he feels obligated to show to his colleagues that he knows the law, he is right, and the Attorney General, and so forth, cannot ever

be wrong. Now under any circumstances, can any Liberal be wrong, because it is against the Liberal leadership code of ethics to be wrong on any occasion.

He talks about the Privacy Act. I haven't even mentioned the Privacy Act. I have talked about an action in trespass or damages, unrelated to the Privacy Act, but he somehow seizes on the Privacy Act. I can be wrong, many times you have found out that I am wrong, even during the course of this Bill, perhaps in some of the sections. You too can be wrong sometimes. I am telling you that in this section those are the words that are there. You can show to your colleagues whatever you want by way of the situation but please give us some credit on this side of the House for having some understanding of the law, without continually, when you are flustered in this area, getting up and saying well, I can't believe it, I can't believe it and so forth.

Mr. Lane: — As a matter of fact, Attorney General, I was going to give you full credit for having an understanding of the law and knowing what you are doing in this Act. And for that reason you are to stand doubly condemned for doing it intentionally and with foresight.

Mr. Malone: — Mr. Minister, I see you have a new adviser sitting behind Mr. Lysyk, would you care to introduce him to the House . . . I see, he will move into your chair if it is required.

I have been listening with interest to your remarks on Section 60, 61 and 62. You have been talking about how fair and reasonable this is and how it is nothing unusual. It is in the Alberta Act, it is in the Income Tax Act, and that under the circumstances there is nothing wrong with it. There can be no real complaints about these provisions. Let me ask you, if it is so fair and reasonable and just under the circumstances, why don't you extend the same privileges to individual potash companies to allow them to go on the premises of the Potash Corporation of Saskatchewan to look at computer data affecting their mines, plans, drawings, engineering studies and so on. Surely if it is fair for the PCS it is fair for Kalium, Cominco and all the others.

Mr. Romanow: — Mr. Chairman, I have to give the answer to the Member that as I said somewhere along the line when we got into these sections, gosh knows when this afternoon, that in addition to whatever I have said about these sections in comparison to other provisions and other statues, I have admitted on second reading that the powers are somewhat unusual, contrary to what the Member has said, I have admitted that, I have admitted it here. My simple point is that the degree of deviation or variation in these powers as compared to other statutes is not so significant as to justify the pleas to democracy and things of that nature that we have been hearing for the last X number of days, okay I have made that point, leave it as an aside.

One of the other points I have tried to make is that this type of a power is consequential upon expropriation powers. All of the sections apart from the income tax provision sections, but the ones I referred to in Alberta and the Expropriation Act

of Canada and so forth are similar powers, not identical but a similar power is set out therein, as a consequence in expropriation. It is a consequential power to expropriation and accordingly the answer to the Member's question is that since the potash companies do not have the power to expropriate, it does not make logic, in my judgment and I am sure the Member would agree, to extend to them the power of expropriation which is embodied, maybe overly embodied but from their point of view nevertheless that power does not extend to an authority that does not have an expropriating power. And the whole thrust of this Bill is to set up the expropriating power in the hands of the PCS and give the consequential powers. I think that is an answer as to why the potash companies don't have a similar power.

Mr. Malone: — Let's be honest. I am glad to see you finally returned to your original statement that these powers, to say the least, are unusual. But the purpose of these powers is to allow the Government potash company to snoop, to go in and look around and see what information they can gather. You can't whitewash that, that is why they are there. Maybe it is proper that they are, this gives them a snooping power, to go in and look around and look at information. Now you've been talking for the last few days, last 45 days how this Act was so fair in its provisions to the potash companies and we've been trying to demonstrate the last few days how it's so basically unfair and I go back to the point as you say, it's fair for the PCS to go in and obtain data of mine information and so on. Well, surely, it's just as fair the potash companies to be able to obtain that same data by going to the potash corporation. You've taken away the right to look at documents under earlier provisions and you've tried to justify that, I don't think you can. So let's admit that it's unfair. It's very unfair. It may be essential to the Act but let's not say that it's fair. Surely.

The question being put on Section 61, it was agreed to.

Section 62

Mr. Lane: — I think the Attorney General will have to admit that Section 62 takes away his hiding place that he's set up for himself in Section 61 when he tried to narrow the interpretation of that section. I don't know what more we can say except that it's an obvious fact that a company such as Noranda and all its subsidiary companies which you rail about and harp about as being the big multinational will all be linked by some central computer system. There's no doubt, too, that the programming will probably be common. There is no doubt that it you get the programs for that computer you will have it for all their subsidiaries whether they're related to potash or not. Section 62 makes it clear it reverts to Section 60 which is the broad powers so in effect what we have, and the Attorney General simply cannot deny it, is that the Government of Saskatchewan has undertaken the power to take the records of any potash company and should that potash company be linked to any of its subsidiaries through computer that it would, in fact, the Government of Saskatchewan has in fact, access to all the computer records of any of the subsidiaries of the potash company.

Now, my next question is, why do you want that power and

if you do not want that power will you suggest an amendment to that Act to take away that power?

Mr. Romanow: — Mr. Chairman, I don't accept the Member's conclusion or interpretation of the law but indeed that power is there so I therefore don't see any point in an amendment.

Mr. Malone: — I read 62 and a quick reading of it is that it's not restricted to premises described in 60 and 61, that is mine or mining property in 60. Am I correct in that reading because you refer to 'the person having custody of computer data or documents on the premises.' Now are you saying that it's restricted to mine or mining property as designated in 60 and 61?

Mr. Romanow: — That's right. That's our contention because, in our view, 62(1) reads, "an office or agent making an inquiry or an investigation under Section 60 or 62 may require the person having the custody," and according therefore, in our view 61 limited to whereabouts, 60 limited to mining property qualifies the balance of that section and therefore I don't accept the Member for Qu'Appelle's argument, you see.

Mr. Malone: — Okay, then. It's then obvious if the potash companies want to avoid the provisions of 60 and 61 that they move all of their computer data, etc., all of the items referred to in those two sections to a law office, CA's office, any other office for that matter that's not within the definition of owner in the definition section.

Mr. Romanow: — I suppose that's possible, yes, to agree with the premise and the like but if the potash company wants to move and get it out of the jurisdiction of the operation of the Act I don't see anything that would stop them or anything that would allow us to proceed after the Act is passed in pursuit of that.

Mr. Lane: — Well, if they were happening, you know, if they happened to move their computer terminal or data, say, to a law office or an accountant's office or whatever, wouldn't that then fall within the definition of mining property, that particular office would then revert to the definition of mining properties as set out in subclause (h) of Section 2 as being property which is not capable for the marketing of potash.

Mr. Romanow: — This is an interpretation difference here and I just don't think that it does. Mining property includes a mine, etc., etc., water rights, transmission, mill site, mining works, ditch mill lines, all lands, buildings and equipment used or capable of being used for, in connection with mining and I suppose it could be argued that a law office is a building used or capable of being used in connection with mining, refining, processing, production, transportation, sorting of marketing of potash, then I suppose it's conceivable but I think the lay people that are here just listen to the plain words of the English and I don't agree.

The question being put to Section 62, it was agreed to.

Section 63

Mr. Chairman: — We have an amendment here from the Member for Rosetown-Elrose. Section 63 of the printed Bill,

> Clause A amend Section 63 of the printed Bill by striking out, "or who obstructs or hinders an officer or agent of the corporation who is making or attempting to make an examination or survey which is authorized by Clause A of Section 60 in the sixth, seventh, eighth and ninth lines."

Mr. Bailey: — Mr. Chairman, I read a story in the Leader-Post the other night about the result of a trial here, I forget where the trial was, I believe it was carried in the Leader-Post about Monday, I would like to draw an analogy with this particular section of the Act in which this young man was sentenced to two years less one day for the act of rape. I would like to suggest that this illicit seizure we've been talking about is somewhat like the Government's proposal here in Section 63 is going in and punishing the individual who may innocently and it could well be quite innocently with such a very strong wording in this particular Act. If you look at the part of the amendment that says "who obstructs or hinders an officer or agent of the corporation who is making or attempting to make an examination or survey which is authorized by clause, etc." Now again as I mentioned earlier I have every reason to believe that there well could be, unless it is properly documents, that an agent or an officer of the corporation could well be on the premises and could be falsely accused, that is the individual from who he may be seeking information and he could bring back an erroneous report and place a very, very heavy penalty upon the individual at the particular site.

Mr. Romanow: — Mr. Chairman, I don't know whether or not the Member fully appreciates because in listening to him I did not get the feeling that he did, the fact that this offence and penalty would only come about after a court hearing. The reason that I make that comment is that the Member talks about innocently a person defending or whatever. If that's the case then there is a defence afforded to that person if it's innocently. In other words the obstruction or hindrance, the completion of the offence is something that has to be made out in a summary conviction proceeding before a magistrate who, presumably is keeping the normal onus of proof and the normal rules of evidence in mind, would, on that example, exempt any liability attached to the officer who so acted within his rights within the Bill and acting, as the Member says, innocently. So there is that extra hurdle or step that must be met and I don't think that the Member's comments, accordingly, are applicable.

Mr. Lane: — I'm wondering if the Attorney General who has said to the House tonight, who certainly knows more law than the other people, and we are prepared to agree with that, I'm wondering how the Attorney General, with all that knowledge, comes up with the idea that a summary conviction offence can get you two years less a day which is generally an indictable offence under the Criminal Code.

Mr. Malone: — That's a proper question. Under the Criminal Code it's

restricted to six months.

Mr. Romanow: — I tell you, Mr. Chairman, it's been a long series of days and I, really, I'm here to sit and to continue to answer the questions but when the Members get up and say that's a serious question, with all due respect, really, you know, telling me that the indictable offences are in one category and the summary conviction proceedings are in another category, of course I know that to be the case. I am merely trying to tell the Member that in summary hearings before a magistrate, that's the proceedings that will have to take place and then for them to seize on it and make an issue of it, I . . . I . . . well . . .

Mr. Lane: — That is not the point. You say that it's liable on a summary conviction and then you give an indictable offence penalty. Figure that one out.

Mr. Malone: — The point is you are. You are describing a penalty for a non-criminal act presumably that's more severe than charges under the Criminal Code. Is that not correct?

Mr. Romanow: — Mr. Chairman, I do not believe it to be correct. In case the Members gets up and says show me, I'd have to get the documentation to . . . it might take some time to find it. When you're talking about indictable offences or crimes, you're talking about a criminal law making power under the Criminal Code of Canada. When you're talking about provincial offences, which is what we're talking about here, you're talking about an entirely different procedure . . . summary conviction procedures. Now that's the position that's here in the section.

Mr. Lane: — We are simply going to tell you that you are wrong completely. Suffice it to say that that has been standard procedure all afternoon and the last few days, and the fact is that no amount of rational and reasonable argument from the Opposition seems to convince you anyway, so we are wasting our time. Wouldn't you agree that in effect what you are doing by implication is giving the officers or agents of the potash corporation really peace officer status under some reconviction procedures of Saskatchewan?

Mr. Romanow: — Mr. Chairman, I would not agree with the suggestion that it is a peace officer status.

The question being put on the amendment it was negatived.

The question being put on Section 63, it was agreed to.

Section 64

Mr. Lane: — It just shows the unfair position of the Government that has been referred to by my colleague from Lakeview. We gave the Government opposite an opportunity to at least give some semblance of fairness to the search and seizure powers set out in these sections. It is interesting to note that when we proposed that the potash companies be allowed to go to the

courts, that the Attorney General said, no, but here we have a section which if the potash companies can't do something they have the power of courts and the right to run to the court. It is a pretty one-sided effort on the part of the Government and I guess all I can say to that, the Attorney General will have to agree, that that is pretty standard and not out of the ordinary.

Mr. Malone: — On this particular section, Mr. Chairman and Mr. Minister, are you suggesting that the potash corporation in applying for a warrant would have to follow the same procedure as if a warrant was being applied for under the Criminal Code?

Mr. Romanow: — Mr. Chairman, in my judgment the answer to that is no. I would like to just point out, and I am sorry I don't have the exact references, we have them in other sections but for some reason by briefing book doesn't have it here, but I am advised by my law officers that this section is a standard section in other expropriation legislation in almost word for word. It is again a consequential power, consequential upon the power of expropriation. Really the point I am making throughout here on this whole series of sections is that to put the argument as fairly as I can, the powers from 60 to 64 are consequential on the act of expropriation. Where the quarrel might come is if one says that the consequential power is unnecessarily expanded, the point you people have made on Sections 60 to 63 inclusive. That does not apply with respect to 64, your argument, because again you want section examples, but I am advised that this section of warrant for possession is the standard section in expropriation procedures.

Mr. Lane: — Does the fact that it may be a standard section preclude you from answering the question of the Member for Lakeview?

Mr. Romanow: — Well, I have. I said no.

Mr. Malone: — What procedure then would have to be followed in your opinion. Would the corporation just have to come in and say we want all assets of whatever potash company they are expropriating and just prove to the judge they don't have the assets?

Mr. Romanow: — Well, Mr. Chairman, without trying to write the procedure or the formal application of the notice, I would assume here that what the corporation would do is on documentation, affidavit evidence or whatever other evidence that may be required by the judge of the district court to support the application, you would simply go to the nearest judge of the district court, the judicial centre in which the assets are located and make out the case that there has been obstruction in the affidavit evidence or in the other evidence that is necessary. And that is a straightforward procedural move.

Mr. Lane: — Could you possibly tell me, Mr. Attorney General, where, if you wouldn't mind just for my own edification, where the power is situate under that section for the judge in turn to make the order after an application is made? Are you saying

that it is implied by Section 64 that he has the power to make such an order, or does he have the power from elsewhere or where?

Mr. Romanow: — Mr. Chairman, again, in my reading of Section 64 is that on the plain words of the section and the natural reasonable interpretation of the section, upon application the judge may order or may state in effect issuing a warrant of possession in order to have a sheriff directing or assisting that particular officer or the corporation to take possession of the assets. The word 'order' may not be in the exact section. I am skimming through it here and it does not appear to be in there, but certainly the whole thrust of Section 64 is the issuance of the warrant for possession.

Mr. Lane: — Wouldn't you think, you know, as a, I suppose a sense of fairness and some concern for our system of justice, that in reality the requirement of going to the courts should be standard right through these sections and it should be the personnel that the courts named. There is absolutely no reason against that and he wouldn't be prejudiced. You know, this very section it merely emphasizes our original argument that in fact the corporation should be required to get an order of the courts before it undertakes any of the awesome powers it has been undertaking. Seemingly if a potash company should do the ultimate wrong and stand up and refuse to give anything, then you will apply to the courts at that time. Why not do it at the outset and be fair about it?

Mr. Romanow: — Well, I suppose that is one alternative mechanism or procedure that would be available. The protection here in 64 in the sense of before a warrant is issued, a judge has to be satisfied. In essence it boils down to a judgment call as to whether or not building in such judicial procedure at the earlier stage is really warranted, given the circumstances of the Bill. In our view we felt that it was not, there really is no better or worse answer than that.

Mr. Lane: — I really agree in light of Section 64 that the smart potash company will simply refuse access to any employee of the potash corporation pursuant to the provisions of Section 60 and 61, refuse to allow the individual on the premises, refuse to give any information and shut them off, and then make the corporation go to court where then the potash companies will be able to argue their case. They are wide open on that because the way you drafted 64 then you could argue before a judge. All I am saying is that you have left yourself open, the way you have drawn 64 to be in exactly the same position that you would have been if you had taken our amendment in the first place and the fact is that any potash company, in light of Section 64, would be well-advised to simply refuse to allow or permit access to any documents, and then simply go to court and fight their case before a judge of the district court.

Mr. Romanow: — Well, Mr. Chairman, I don't agree with the Member, because really when you look at Section 64, it is limited to what? To a warrant of possession "of any assets expropriated under this Act." That's all the warrant for possession is limited to under Section 64. Whereas the Member was talking about Sections 60 to 63 inclusive. Those are different sections,

these are sections with respect to the right of examination of premises, etc., pre-expropriation. They don't relate to Section 64. But in any event, leaving that as an aside, I would conclude by saying it is possible that a potash company under 60, 61 or 62 or 63 doesn't have any right to move in there and force the corporation to go to court proceedings, but I am not sure that I would agree with the Member that that would be the smart thing to do for a corporation.

The question being put on Section 64, it was agreed to.

Section 65

Mr. Malone: — Again this Section 65 and 66 and the earlier seizing section that says you don't have to do things properly if you don't want to really makes a mockery of the Act. I could ask you why it is there and I suppose you are going to get up and say it is in all the other Acts dealing with expropriation but again I point out that years could go by before the error or omission was discovered. You refer to 'no reasonable doubt as to the description of the assets', and I say reasonable doubt for whom? The Potash Corporation of Saskatchewan, the potash company that is being expropriated, the secured creditor, whom are you referring to there?

Mr. Romanow: — Mr. Chairman, I would point out to the Hon. Member that under 65(1) 'the misstatement, omission or error' is qualified by the words, "is of such a nature that no reasonable doubt exists as to the description of the assets or the identity of the owner to whom the Order in Council was intended to relate". In other words those two provisions, the identity of the owner, the description in the Act that zero in and there has to be the quote "no reasonable doubt" in this regard, zero in to the omission, misstatement or error. So that is a very significant, limiting authority. What happens if there is indeed a dispute in this area, well then of course it will have to be determined by a judge's decision in the appropriate manner on the hearing of evidence and in the normal way.

Mr. Malone: — Again I ask, "a reasonable doubt" in whose mind, the potash corporation, the owner or the secured creditor?

Mr. Romanow: — The Lieutenant-Governor-in-Council initially because it has to say there is no reasonable doubt after a description, etc. But of course that isn't necessarily the definitive word on this matter. As I said if it ultimately ends up in any court it will have to lie on the premise of the court to determine whether or not that adjudication was right.

The question being put on Section 65, it was agreed to.

Section 66

Mr. Malone: — Well, again, "the failure to comply at any time in whole or in part with any provision of the Act, shall not affect the vesting". So once again the Potash Corporation of Saskatchewan to get the vesting order, not serve it, not proceed to expropriation, not do any of the things under the Act that

it is required to do in no way affects vesting. With the vesting order, as you are aware, they get the property clear title subject to no encumbrances and so on. So it is conceivable under that section that the potash corporation won't have to take any steps to negotiate a sale, to go through the expropriation procedure and they would still own all the property.

Mr. Romanow: — Perhaps the best way that I can explain this is that Section 66 is intended in law to indicate clearly to the world, if I may put it in those terms, that there has been a chance in title by the vesting order and that the mechanical or other compliances of it should not stand in the way of action that is taken under the Act. It is possible that there may be failure to serve a secured creditor which it is possible could work some hardship perhaps on the secured creditor, that is true, I grant the Member those possibilities. But the intent of 66 is to indicate that once the vesting order and the act of the vesting order has been taken that that is it, the title is transferred and the subsequent defaults or otherwise are not to be considered. I think there is some merit in that because it does certainly give certainty to the Act.

Mr. Malone: — It gives certainty to the Act but also, as I pointed out to you, the Potash Corporation of Saskatchewan could get their vesting order and then do nothing, not go to arbitration, not tell anybody about it, they could take the mine and sell it to somebody else without complying with any other provision of the At and this Section 66 saves them from any prosecution, any civil claim or anything else.

Mr. Romanow: — I think, Mr. Chairman, that if Section 66 was not there, conceivably they could do the same thing, the potash corporation could do that, so the presence or lack of it would not affect that type of thing but at least the statute tries throughout on the notice of action here to make that obligation and the legal certainties as clear as possible.

The question being put on Section 66, it was agreed to.

Section 67 agreed to.

Section 68

Mr. Malone: — Again, why should the potash corporation have such a power? Surely if the employee has a legitimate claim against an employer or a former employer he should not be put in any better position than any other employee in this province. He has all sorts of protection under The Labour Standards Act, he can take a civil action, he can do many things by going to court and getting a judgment. What makes the employee of a potash corporation any different than any other employee?

Mr. Romanow: — Mr. Chairman, I think the Member would agree with me, at least I hope that he would agree with me, that it is not that easy for either individual employees or even an employee in a trade union necessarily, to take those actions in some areas. For example, there may be an area involved very complicated and

involving individuals, superannuation as an example, it would not be easy for individuals or otherwise to pursue those obligations with the potash corporations. It might be easier in individual employment cases but generally not and it was felt, and I subscribe to this view, that we should make sure that there is the ability with the workforce that there is this ongoing continuity in the workforce and that accordingly if there is a failure to honour, the corporation may take up these obligations in order to preserve that continuity and those obligations.

Mr. Malone: — Well, what you are saying then is that an employee can come to the Potash Corporation of Saskatchewan and say that Kalium, Cominco, one of the companies, owes him a sum of money. You can do one of two things, you can just pay the employee and accept his word for it and then deduct from the amount you are paying to the corporation, or you can go to the company and say, does this employee in fact have a claim against you for wages, superannuation or whatever. The company can say, no, he doesn't have a claim, he was discharged for cause or he has paying arrangements coming to him under a contract by law, and then you can still go and pay him and the company that is affected, Kalium or whatever, has no recourse whatsoever.

Mr. Romanow: — Mr. Chairman, first of all the provision is not mandatory and there is authority in the hands of the corporation in individual cases, perhaps not to undertake those obligations. The other point I would like to make is that there is no power that I can see here in the hands of the corporation to deduct. Really what would happen is that if it discharges that obligation then it would have to make a claim against the company for that obligation but not as against the fund though. So it won't be quite as simple as that and I think that herein lies a great deal of the motivation to be absolutely careful that any such obligation undertaken is one that could reasonably be perceived subsequently down the road to have been one originally obligated as between owner and employee or employees.

Mr. Malone: — Again, you ay that PCS can claim against the owner, of course there is the right of setoffs and if they haven't paid out the money yet under the expropriation award all they do is hold back whatever was paid to the employee. So surely subsection (2) is really no saving for the individual potash company that is affected.

The question being put on Section 68, it was agreed to.

Section 69

Mr. Chairman: — Section 69 on non-application of certain Acts, and we have an amendment by the Hon. Member for Riversdale, the Attorney General. Section 69 of the printed Bill to be amended by striking out subsection (3) and substituting the following therefor:

> (3) The Expropration Procedure Act, 1968 does not apply to or in respect of (a) the expropriation under this Act if any land or interest in land; (b) a board of arbitration appointed under this Act; and (c) any arbitration proceedings of a board of arbitration appointed under this Act.

Mr. Romanow: — A very brief explanation of this amendment. Again, the amendment is not of consequence. We have excluded some provisions here and the House amendment relates specifically to The Expropriation Procedure Act. What the House amendment does is that it ensures that all of The Expropriation Procedures Act is exempted rather than just the exemption of the arbitration and arbitration proceedings portion of The Expropriation Procedures Act which is the way the printed Bill is set up.

The question being put on the amendment, it was agreed to.

Mr. Cameron: — Mr. Chairman, Section 69, subsection (4) exempts the Government from complying with the provisions of The Regulations Act in respect of an Order in Council under Section 3 or 65, that is to say an Order in Council with a vesting order the Government is not required to comply with the provisions of The Regulations Act. Now The Regulations Act requires that Orders in Council of importance be given to the Registrar of Regulations. He in turn has got to do two things; one, he has to publish within 30 days in the Saskatchewan Gazette and secondly, he has to give a copy of the Order in Council or regulations to the Clerk of the Assembly. Now why are we exempting the Government in this Act from compliance with The Regulations Act?

Mr. Romanow: — Mr. Chairman, the answer for this part as well as the other exemption is that we are basically here providing for a code of procedures within this statute, including the code of procedure relating to what happens on the vesting order, the regulations and so forth. There have to be certain services that take place and the like filings in the operation. It is possible that we could perhaps have made the provision as the Member suggests. I don't see any particular big hang-up against doing that but our reasoning at the time was that the Act itself, as I said, provides for this code and therefore did not need to have the other Act applied.

Mr. Cameron: — May I ask, Mr. Chairman, do you have an objection to requiring the vesting order be given to the Clerk of the Assembly in the first instance to go to the appropriate committee of the Assembly; and secondly, and more importantly, to be published within 30 days of its passing going in the Saskatchewan Gazette. That has another bit of importance too. As you know, regulations that are published pursuant to The Regulations Act can be introduced in court as evidence in themselves which doesn't necessarily apply to Orders in Council, and if you have no objection to that I would feel much better if The Regulations Act and the requirements of that Act applied to Orders in Council of expropriation under this Act.

Mr. Romanow: — Mr. Chairman, I don't want to accept the Member's suggestion but I don't want him to misinterpret this because really the implications of what he has suggested that it come under The Regulations Act may very well have some drastic other effects of the provisions of the Bill. For example, when the Order in Council is passed now, the vesting order is passed now, the title is something that occurs to me, what would be thereafter the consequence of having to go under The Regulations Act and the 30-day publishing requirement or whatever, will that provision

of the regulations have any effect on the procedure that has been built in and the certain legal consequences that flow from it. I don't know, maybe the Member will get up and assure me that it shouldn't have any effect on it, but I can't accept the suggestion because the whole Act is predicated, as I have said, on our own code, if I can put it in that sense, and to adopt the suggestion I fear might necessitate a rewriting of some of these provisions.

Mr. Cameron: — I am not entirely sure that there is any other section in this Act that requires an Order in Council by Cabinet vesting and making an expropriation is required to be made public.

What this Regulations Act would do is require the Government to make an expropriation order public within 30 days after it has been passed. If there is no other requirements in this Act to do that then I ask you: what is to prevent government from making a vesting order and not making it public? Not only for 30 days but for six months?

Mr. Romanow: — I think the answer that I give to the Member, we talked earlier about definitions of words several days ago, the question really is of what is making what public. If leaving the Bill the way it is, nevertheless there still is the requirement that a passage of the Order in Council, all of these services have to take place for the Land Titles Offices. Again, Section 66 doesn't meet the argument that the Member for Regina South advances because you could drop all of Section 66 out and he would still argue that you would not make it public. I am simply trying to meet that argument by saying that while it is not public in the sense of being printed in the Saskatchewan Gazette or wherever else such an OC has to be published, it certainly is public in the sense that it does have to have, under the obligations of the Act, a service of notice on so many people – the Land Titles Office, Mineral Resources, Provincial Secretary people, etc., as to be public.

Mr. Cameron: — Mr. Chairman, let me put a point to you in response then and ask you in return if you are prepared to do something.

There is no time limit in which the services have to be made. It simply says that the service has to be made as soon as practicable after the passing of the vesting order. There is no time limit. You can conceive of circumstances in which it might not be practical to do it in a period of six months. And I can also conceive that a vesting order on expropriation may be in place for a period of six months with there being no publication of that and not drawn to the public attention.

That being the case, may I ask you – and I won't bother drafting an amendment if you are going to defeat it as there is no use engaging in that fruitless exercise. But would you have an objection to adding an amendment to subsection (4) of 69 which would require that within 30 days of the passing of an Order in Council with a vesting order that it be published in the Saskatchewan Gazette. That one requirement alone.

Mr. Romanow: — Mr. Chairman, this is one where I have a great deal

of sympathy with the Hon. Member, but again, I would have to suggest that I would not, at this time, be prepared to accept such a suggestion for two reasons as I have already outlined.

1. the question of it being made public I say is covered by the sections and we have already talked about what ‘as soon as practicable’ means, your views and my views on it.

2. I am not just sure of the legal effect, if any, there may not be any legal effect on the requirement of publication, the legal effect that that might have on ownership, vesting ownership or any other provisions of the Bill. As I say, I think I would have to reject the Member’s suggestion.

Mr. Cameron: — Again, I can hardly commend your attitude. We are all far too tired to bother to argue these points at great length, but again, I say to you in all sincerity, it demonstrates a totally inflexible attitude in respect of a very legitimate point. You say our interpretation of the Act requires to serve the notice in any event. Well if that is the case, what objection do you have to making it public in 30 days? So your first reason is therefore not a good one. You say, secondly, is that you may have some concern about how it could affect the validity of the thing. Surely to goodness making it public is not going to affect in any way its validity. Well, his reasons, they just aren’t logical I put to you in all sincerity.

We ask you simply and squarely if you pass a vesting order, make it public in 30 days. We want to know, companies want to know, and I think the public has an entitlement to know. A simple request.

After the hours and hours and hours that we have put into it we are simply not going to berate you at length in respect of it. But I think, again, it demonstrated an attitude which is all wrong, that you have taken throughout.

Mr. Romanow: — Mr. Chairman, again, you are tired and I am tired and I am not going to berate you people and I don’t think I have during these 45 days. I have been calm, reasonable. How public should the notice be? I am saying that the way the Bill is worded that it certainly has wide distribution, the equivalent of which is a reasonable interpretation of it being public. The Hon. Member says that is not good enough. I respect his point of view. It has to be even more public by way of the Saskatchewan Gazette publication. I understand the argument that he says, perhaps under other circumstances we might have, that we would have other opportunities to check the effect of it, I would be very sympathetic to the acceptance of it. But I am just fearful that by doing so I would be messing up, as I have said, the internal procedure that has been set out. I am sorry.

Mr. Cameron: — Just one simple comment in reply. If the Government of Saskatchewan armed with this power is going to go out and expropriate a potash mine which may be $200 million or two of them which will be $400 and I, as Member of the Legislature, am not told about that, then what sort of state have we reached in this province. Surely to goodness I have that right as a Member of the Legislature to know that. That is all that I am asking. Simple requirement that it be public knowledge

within 30 days. And I tell you an attitude that says, no, we are not prepared to accept that is an attitude that I find very, very strange.

The question being put on Section 69, it was agreed to.

Section 70

Mr. Malone: — Have the rules of procedure and practice been prepared?

Mr. Romanow: — No.

Mr. Malone: — The hour is getting late and we are all getting cranky, I think, but I must say with respect, Section 70 is the final indignity put on the potash companies in Saskatchewan, even if they won't sell they will be expropriated. If expropriated, they are told under what rules the value of their mines will be determined. They are told about hearings that they can't get the documentation, that the Potash Corporation of Saskatchewan has in its keeping. On and on and on, things the potash companies aren't allowed to do and finally, the author of all these things, the NDP Government, the Lieutenant-Governor-in-Council decides by which rules, how the rules are going to be set up for the expropriation hearings.

If this Bill was entirely innocent and was a fair Bill and we could acknowledge certain fairness in it, I wouldn't be making these comments. But it is not a fair Bill and there is no reason that I can think of, Mr. Chairman, why the potash companies, why the Members on this side of the House shouldn't be very suspicious of this particular section. Now it is very innocent, it appears to be very innocent, but as the Minister well knows the rules of proceedings can become very substantive if they are worded in such a manner, they can deprive people of basic rights and I say that I will reserve my decision on what these rules will be like until I see them and I suspect very much that they will work to the complete disfavour of the potash companies in this province.

Mr. Romanow: — Mr. Chairman, again, I guess it all comes down to this difference in the last few sections, the difference that has existed throughout the piece in this whole debate between ourselves and the Opposition, and that is the contention by the Opposition that regardless of explanation or provisions the Bill is unfair, the very Act is unfair. That is the sum and substance of your position. You have taken that right from the day after I introduced the Bill. And conversely, I have been constrained in taking the opposite reproach.

I want just to conclude by saying this: in some way, I think, an expropriation Bill, any expropriation Bill, regardless of this Bill, is a relatively harsh Act of any Legislature. One can argue in philosophical terms, legally or otherwise, as to the act of expropriation itself, regardless of Bills 1 and 2. My contention is within that framework on balance the Bill is a fair one to the potash companies within that framework, on balance. That is the only point that I want to make.

The question being put on Section 70, it was agreed to.

Section 71

Mr. Lane: — Surely you are in jest in that section. I am serious. I can't believe after all we have heard of how one-sided this Bill is and now we have proved it. That is surely put in in jest.

The question being put on Section 71, it was agreed to.

Mr. Chairman: — I should like to have leave of the committee to revert to Section 1. There was an amendment and I should like to read the amendment. It was presented by the Member for Riversdale, Mr. Romanow.

> Section 1 of the printed Bill amendments Section 1 of the printed Bill by striking out 1975 in the second line and substituting 1976.

Amendment agreed to.

Schedule 1

Mr. Lane: — Mr. Chairman, I think we are practically at the end of a very long 45 days of debate on the Bill to nationalize, expropriate or confiscate the potash industry of Saskatchewan, and I would just like to give a short summary tonight.

The Member for Regina South (Mr. Cameron) and the Member for Saskatoon Riversdale (Mr. Romanow) both said they were tired. I think possibly all Members are very tired. We, in the Liberal Opposition have stalled this Bill for as long as we think we reasonably could. We attempted at the outset to bring into question the three reasons that the Government had given for nationalization; they were afraid to go to court or fear of a court decision. It turns out that in fact because it was such a prolonged affair, it turns out, of course, that the Government did have the right under the constitutional Questions Act to get a relatively immediate decision.

We had the argument, the second argument for nationalization that the companies refused to pay their taxes, many of them didn't even know the taxes were assessed and in fact had been paying their taxes in principle subject to a calculation of the exact amount owing except for Central Canada.

We hard the third reason for nationalization which was that the companies refused to supply information and, in fact, several companies it turned out in debate, had supplied the information.

We feel at least ourselves that we in the Opposition have refused the reasons of the Government opposite for nationalization. We have constantly attempted to refute the argument that it is a good business deal. We have brought evidence before this House as to markets, declining and softening, prices dropping, a surplus estimated at the end of this potash year of 1,800,000 tons, new deals meaning drastically reduced prices. We have brought evidence into this House about Russian competition, which competition will be permanent; the possibility of development of other sources competing with Saskatchewan Potash Corporation and that in fact the degree of risk being taken

indicates that it is strictly a gamble and not a good business deal.

We have brought evidence, I think, in the 45 days of debate that will refute the argument of the Government that will allow the social benefits to continue to this province and, in fact, that nationalization has restrained social developments because the Government is using the Energy Fund, which we have recently found out could have been used to alleviate the housing crisis, assisted our senior citizens' pension, could have been used to develop hospitals to reduce patient waiting lists.

I think we are all tired. We in the Opposition attempted to establish a position, we feel that we have done that to the best of our ability. We fought for a period of 45 days, which we did as strongly as we could. We said at the outset that we opposed nationalization, we oppose potash nationalization and there has been nothing in all these days of debate to cause the Liberal caucus to change its mind one little bit. I think that there has been enough evidence brought forward in these 45 days hopefully to convince the people of Saskatchewan that the dangerous gamble being taken by the Government opposite is something that probably will not have any long-term benefits for the people of this province.

Some Hon. Members: — Hear, hear!

Mr. Lane: — We have been accused of filibustering and we in the Liberal caucus filibustered this Bill and did it proudly. We have been accused of stalling and we in the Liberal caucus intentionally stalled this Bill and we did it proudly.

Some Hon. Members: — Hear, hear!

Mr. Lane: — We have been accused of obstruction and we in the Liberal caucus have obstructed this Bill and we have done it proudly. I think I agree with the Members opposite that we are all tired, it has been a long debate, we have had nothing to get us to change our mind, for that we regret the Government's actions in this regard.

Some Hon. Members: — Hear, hear!

Mr. Romanow: — Mr. Chairman, I want to say that we will have a chance on third reading to make these comments. You can make them now if you want, it is up to you. I just simply want to say that the same position that the Member takes for his side, I must take for our side, and that is, through all of these days there is nothing that has shaken my confidence and the people of Saskatchewan and their right to control their resources which I think will be as I have said when I introduced Bill 1, truly Bill 1 for all Canadians in due course.

Some Hon. Members: — Hear, hear!

Mr. Chairman: — Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan enacts as follows: — An Act respecting The Development of Potash Resources in Saskatchewan.

The question being put on Bill No 1 as amended, it was agreed to.

COMMITTEE OF THE WHOLE

BILL NO. 2 — AN ACT RESPECTING THE POTASH CORPORATION OF SASKATCHEWAN

Section 1

Mr. Chairman: — We have an amendment to Section 1 presented by the Hon. Mr. Romanow.

Amend Section 1 of the printed Bill by striking out 1975 in the second line and substituting 1976.

The question put on the amendment, it as agreed to.

Mr. E.C. Malone (Regina Lakeview): — Mr. Chairman, I am not going to launch into a long speech on item 1 which seems traditional in some Bills.

My first question to the Minister, and I think he is aware of what it is going to be. We had an assurance from the Premier some months ago in response to a question on the question period that the Government would consider putting a statutory borrowing limit into the Bill. We asked for this because we think it is proper, the Premier has said publicly and I said at least once in this House, that the Government intended on spending between $500 million and $1 billion to effect the purposes of Bill 1 and Bill 2. My question to the Attorney General is: — are you prepared to propose an amendment to put such limitation on borrowing in this Bill?

Hon. R. Romanow (Attorney General): — Mr. Chairman, we have considered that request and I would like to advise the Member that we can't accept the suggestion at this particular time. Accordingly we don't propose to make any motion for amendment to put a limitation on the borrowing power.

Mr. Malone: — My question to you now is, why?

Mr. Romanow: — Mr. Chairman, the Member will appreciate that to a large extent this answer is the same as I gave in Bill 1. It is not possible for the potash corporation or for the Government to say until it is actually concluded what potash mining companies are required, at what price and under what financial considerations or even at what borrowing requirements that may or may not be attached to the corporation or the Government as a result thereof. Accordingly, it seems to me that any sort of limitation on the borrowing power would be premature at this time, and would be an arbitrary figure which would not say very much in terms of carrying the full import that the Member would consider.

Mr. Malone: — I take then from that remark that you then concede that the Government is prepared to expend more than one billion dollars?

Mr. Romanow: — No, Mr. Chairman, I don't concede that. I just simply say that I have said earlier that it is not desirable nor possible to put in such a limit for the reasons that I have outlined.

Mr. Malone: — We have had the word of the

Premier in this House that this legislation could cost the people of Saskatchewan between $500 million and $1 billion. He has said that. He has given an outside limit of $1 billion, he said it publicly, he said it in here. You say that you don't want to be restricted in any way in the amount of money that you will have to borrow or spend. I suggest to you that the proper interpretation of your words, is that it is conceivable to effect your purpose here that you are going to have to borrow more than $1 billion.

Mr. Romanow: — Again, Mr. Chairman, these arguments are so interrelated and I don't want to go through the whole Coopers Lybrand statement again, as to what they say the industry in totality is worth, nor do I want to go through the entire arguments that I have made before that that is predicated on the acquisition of all of the industry.

I think all of these points have been made and so has been my point, that the question of the acquisition and the price that is actually to be paid and any obligations attached to the Government subsequently really cannot be foreseen at this particular time.

Mr. Malone: — I understand with the possible exception of Saskoil, any other Bill that has been brought before this Legislature to set up a Crown corporation and to empower it to take over other companies, to do the things that it is incorporated to do, has contained a borrowing limit in the statute. Now Saskoil, if there is no borrowing limit, I will accept the blame on this side of the House for not insisting that such a statutory limitation should be put in. I suggest to you as well that Saskoil is somewhat different from the Potash Corporation of Saskatchewan, that Saskoil was incorporated not to take over existing companies. At no time was it ever suggested that such huge sums would be spent by Saskoil as it is anticipated are going to be spent by the Potash Corporation of Saskatchewan.

Would you agree with me firstly, that every other Crown corporation, SPC, Sask Tel, anyone you can name has a borrowing limit in the statute that originally incorporated it?

Mr. Romanow: — Mr. Chairman, I am not denying what the Member says. I cannot agree with him because I quite frankly would have to go through to check or have someone go through to check, I think it can be said the majority of them, if you will, do not have provisions similar to this. So I am not taking issue with what the Members tries to put forward as a major proposition.

I would simply point out as the Member has already pointed out in his opening remarks that Section 11 of The Saskatchewan Oil and Gas Corporation Act, 1973 which was passed at that time, I don't know if the Member was in the House or not, maybe he just entered as a by-election, does not have such a limitation on borrowing in it. We are dealing here basically on two statutes that are similar rather than dissimilar, or at least two activities that are – not I come back, two statutes that are very similar, the Potash Corporation of Saskatchewan, Bill 2 is very similar to The Saskatchewan Oil and Gas Corporation Act, because they are resource statutes. They are resource Crown corporations.

The argument that the Member seeks to advance in his earlier comments seem to imply that without a limitation on borrowing this terrific financial risk and exposure is open. I would suggest to the Hon. Member that we are talking considerable funds and sums as well when we are talking about Saskoil. The provision is there, and as far as I know, was not objected to in committee or objected to in any of the second reading speeches at the time of the Saskoil operation.

Mr. Malone: — I accept any criticism that may be coming to us for overlooking that at the time. I suspect it was overlooked. I was here for a matter of a couple of days during that debate, I must have overlooked it myself.

For 45 days you have been telling us that these Bills, 1 and 2, are no different that the Bills that were used incorporating SPC, Sask Tel and any number of other Crown corporations. In fact you have been using that as a selling point in all of your speeches. You have been using it in your speeches in the public forums, all the way along, you keep saying it is the same as SPC, Sask Tel, any other Crown corporation in Saskatchewan. I am saying to you now, if it is to be the same, let's make it the same. I am sure when SPC first became incorporated at the time considerable sums were to be spent by it, not to the extent of one billion, but perhaps in perspective almost as much in those days, maybe not, but certainly huge sums for that time. In that Bill there is a statutory borrowing limit put in it; I say to you to follow the precedent that is well established in this Legislature that it is improper for you now not to put such a limit in this Bill.

Mr. Romanow: — Mr. Chairman, again I come back to the argument that I have advanced earlier. I do believe that this Bill is in substance, not identical, it is a contradiction, in substance it is very close to any Crown corporation Bill. Here we are dealing with the establishment of a Crown corporation. The Member opposite seizes on one aspect of the section. Again I come back to the Member by saying that the Saskoil Bill of 1973, Section 11 contained an identical provision, with the possible exposure of certainly thousands if not millions of dollars by Saskoil. I don't know what the expenditures of Saskoil were but the argument is there for Saskoil the same as it is for the potash corporation. If the Opposition says, the exposure could potentially be too great, you need a ceiling on it, I argue that, and they support the Power Corporation as a precedent. I argue the same thing for my standpoint when it comes to the Saskoil operation. Here we don't have this particular borrowing power that is in there. I suggest that it was for good reason in Saskoil, I am not criticizing you for it, I am not criticizing the Liberal Opposition for not asking for a ceiling at the time. I happened to think they took a right tack in not criticizing it at that time. I criticize you for criticizing this one to be consistent on the operation. Because quite obviously people who would say that the operative statute is really Statute 1, this is the mechanism, the vehicle for doing it. If you see all of the arguments I have advanced on Statute 1, with respect to possible financial exposure, it is only reasonable there would not be this ceiling that I have said.

Mr. S.J. Cameron (Regina South): — Mr. Chairman, I am going to suggest to the Attorney General, he not get himself too far out on this limb. Let me show you how far out you are already. You listen to the point I want to make and tell me how far you have got yourself out on a limb.

This Bill 2, Section 14 says:

> The Minister of Finance may out of the consolidated fund advance moneys to the corporation and upon such terms as may be determined by the Lieutenant-Governor-in-Council.

Section 9 of The Saskatchewan Oil and Gas Bill says:

> The Minister of Finance shall pay to the corporation out of the Consolidated Fund such sums of money as may be appropriated by the Legislature for the purposes of the corporation.

A very, very significant difference. Don't get yourself too far out on a limb on that one.

We think thee is some precedent for establishing limits, not only a matter of precedents, we think it is a matter of commonsense to establish some limit. The Member for Lakeview has made the point, if you intend as the Premier indicated to spend between $500 million and $1 billion then again we wonder why you should have objections to putting a limit of $1 billion in the Bill.

Mr. Romanow: — I think the Hon. Member wants to continue on Section 1. Mr. Chairman, it is about ten minutes to nine. I don't know if the Hon. Members feel like this Hon. Member feels. I feel 'pooped'.

The Assembly adjourned at 8:50 o'clock p.m.