

LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
December 9, 1977

The Assembly met at 10:00 o'clock a.m.

On the Orders of the Day

QUESTIONS

Constitutionality of Bill 47

MR. R.H. BAILEY (Rosetown-Elrose): — Mr. Speaker, in the absence of the Attorney General I would like to direct a question to the House leader opposite. Is it true that in order to prove the constitutionality of Bill 47 a decision of the Supreme Court, as to its validity, would have to be handed down and this decision would take from 12 to 18 months? Is it true that in the interim cash would have to be raised to repay the payments as they relate to Bill 42?

MR. HON. J.R. MESSER (Minister of Mineral Resources): — Mr. Speaker, the Attorney General is not now in the House. I think we would have to take the question under advisement. I don't have the that the member is asking for and perhaps it can be answered at a later date.

MR. BAILEY: — Supplementary question, Mr. Speaker, again I turn this to the House leader. Why, Mr. House Leader opposite if you want speedy passage of this bill, as you have previously indicated, that is Bill 47, are you permitting as a group of individuals in this Assembly, in an apparent co-operative way with the Liberals, to adjourn debate each day after one short speech and thus delaying the bill from going to Committee of the Whole? The question I ask is, why the stalling tactics?

HON. G. MacMURCHY (Minister of Municipal Affairs): — Mr. Speaker, we have not at any time, I don't think, indicated any need for a speedy passage of the legislation. To a question earlier asked of me in the House I indicated that our intention was to have the bill passed during this part of the session - that of course would hopefully be before the break for Christmas. With respect to the debate in second reading, I think it's our intent to give members an opportunity to debate, it's a very important piece of legislation. We have had some significant debate and I see indications of it picking up and I would hope the hon. member for Rosetown might join in the second reading debate.

MR. SPEAKER: — I'll take the next question. The member for Assiniboia-Gravelbourg.

Shut Down Industrial Customers Re Power

MR. R.E. NELSON (Assiniboia-Gravelbourg): — Mr. Speaker, I have a question of the minister in charge of SPC. With no sign of let up in the cold weather and with the power system of our province working at maximum capacity and with homes last night out of heat, will the minister tell the citizens of the province whether or not he is considering shutting down the industrial users of the province?

MR. MESSER: — Mr. Speaker, I believe all members know that during periods of time of adverse cold like we have been suffering from in the last few days and I guess will be suffering from for at least another several days, there is always an arrangement that can

be brought into place in regard to large industrial customers so that we can cut back on their demands in order to assure the private citizens will have sufficient electrical power and gas in order to protect them from the adverse weather that we are suffering from at this time.

MR. NELSON: — Supplementary, Mr. Speaker. Would the minister tell us, did Sask Power export power from the province last week and did it export power this week and does it intend to export power from the province next week?

MR. MESSER: — Well, Mr. Speaker, I think that that is a difficult question to answer at this time. I could perhaps provide more specific information to the member at a later time. It is unlikely that we are exporting power during periods of time such as this because of the demand on our system. But we do have reciprocal agreements with especially the province of Manitoba where if we have a surplus of power, we are running at full capacity, and they are in need of it and our system is not using it we will transmit that power into Manitoba. If, on other occasions, we are in need of power because of a shortage of supply due to breakdown or extremely cold weather they will then return the power that we exported to that province. So that it's an ongoing situation in relation to peaking and demand situations. I again say, as I initially stated, that it is unlikely during these extremely cold periods of time we may be exporting power but there could be small sums of it going over to Manitoba and we may now be getting some of that back.

MR. NELSON (Assiniboia-Gravelbourg): — Supplementary, Mr. Speaker. If it is cold in Manitoba it would be difficult to decide which province the coldest weather was in. But has the minister taken any action to dim the lights in all the government buildings in this city and in the rest of the province?

MR. MESSER: — Well, Mr. Speaker, with all due respect I don't think dimming the lights is really going to contribute very much to the kinds of demands that are being placed on the system. We have in place now a policy, an undertaking, to conserve power in government buildings and the buildings of government agencies. May I say, Mr. Speaker, that even though we have had some small outages of power throughout the province they have been very localized and it certainly hasn't emanated from an inability to produce sufficient power. It has been created because of short-term temporary breakdowns in the system, such as insulators and the like of that which are put under extreme stress under extremely cold weather and high delivery periods of power.

MR. J.G. LANE (Qu'Appelle): — To the minister responsible for Sask Power. Rate increases have been announced fairly regularly recently and in light of the problem raised by the member and the severe demands on power and gas in the province, at the time of the last rate increases you announced that it would have some hardship on say dairy farmers, would the government if this spell is prolonged consider implementing a special grant or rebate program to low income, senior citizens and those small businesses and small farmers that were severely effected by the latest rate increases? I think it's serious; maybe the Liberals don't.

MR. MESSER: — Mr. Speaker, the answer is that we would like to be able to provide some of those people who are on fixed income with some means of assistance. We don't believe that is or can be a responsibility of the Saskatchewan Power Corporation. I think that in those instances there would have to be some other means of recognizing their problem and/or the deficiency and compensating for it through special programs

administered by the Department of Social Services both at the provincial and at the federal level. It cannot be a responsibility of the Power company. Even if they were to undertake to do it there would be certainly an equitability in a great many instances. If I may use an example, for pensioners who are in apartments we don't really know what additional cost may be in relation to their rentals paid and how that pertains to heat and/or electricity. It is just a very, very difficult problem and I think it has to be done by agency that is responsible for that particular community of people.

MR. LANE (Qu'Appelle): — Supplementary question, Mr. Speaker.

MR. SPEAKER: — Order, order! I will take the next question - the member for Saskatoon-Sutherland.

MR. H.W. LANE (Saskatoon-Sutherland): — Mr. Speaker. a question to the minister in charge of the Aware Program.

The recently announced licensing of a drive-in fast food franchise outlet in Regina indicates an extension of government policy regarding the licensing of liquor outlets generally. Does the minister of the Aware Program, or is the minister aware, that present government policy as exemplified by the licensing of an A&W drive-in restaurant is an extension and presents a dangerous precedent to the licensing of drive-in liquor establishments all over the province?

HON. E. TCHORZEWSKI (Minister of Health): — Mr. Speaker, I am not sure of the aware of the licensing of the A&W restaurant which the member talks about. If it is being licensed the member in charge of the Liquor Licensing Commission could respond better than I. I would be very surprised indeed if it is licensed in a different way than it has been for other kinds of restaurants because it would have to meet certain pretty high standards in order to be able to qualify for a license.

I think it is fair to say, Mr. Speaker, and the general public recognizes that this government has made some very significant efforts in the area of creating better attitudes towards the consumption and the abuse of the consumption of alcohol. There are reasons, and there are supporting documents to indicate that this indeed has had some considerable impact. My discussions with people in rural Saskatchewan . . .

AN HON. MEMBER: Order, order!

MR. TCHORZEWSKI: — I am trying to answer the question. I have one more point I want to make. Mr. Speaker, if the members opposite will let me. In my discussions with people in rural Saskatchewan in my constituency particularly, certain beverage room operators tell me that in the last several months the consumption of alcohol in their premises has indeed decreased because of Aware and because of other efforts that we have made.

SOME HON. MEMBERS: Hear, hear!

MR. LANE (Saskatoon-Sutherland): — Supplementary question.

MR. SPEAKER: — Order, next question, member for Wascana.

Rent Increases for the Coming Year

MR. E.F.A. MERCHANT (Regina Wascana): — Mr. Speaker, I direct this question to the minister in charge of the Rentalsman. I ask the minister whether he intends to bring down any policy or guidelines? I note that last week he indicated that there would be no directions and no guidelines given in terms of increases for the coming year and I suggest to the minister that that is causing a total state of disorganization and does nothing more than encourage massive numbers of applications to the Rentalsman.

HON. E.C. WHELAN (Minister of Consumer Affairs): — I am not just sure what the question is but it's a long rambling preamble that I was trying to follow. First the review of increases that had been allowed indicate a variation from a small percentage to as high as 10 per cent. Many of the members opposite, I am sure, are aware of the fact that in British Columbia a blanket increase of 7 per cent was allowed recently so when the Rentalsman increases the rent to a point of 10 per cent, it's an indication on a comparable basis that some of the rents are lower than they should be. If I may, while I am on my feet, yesterday someone from the opposition. I believe the hon. member for Eastview asked a question about the financial statement. Well I would like to answer that if I could, Mr. Speaker.

MR. SPEAKER: — Order. Can the minister inform me if this is related to the answer to this question as well?

MR. WHELAN: — Yes it is. It casts a reflection on the Rentalsman and his entire staff because of the sort of question that was asked. The proposition that he put to the House regarding the financial statement was erroneous, misleading, incorrect and ill-advised.

MR. MERCHANT: — . . . Yesterday's question . . .

MR. WHELAN: — I am going to get to that. I'm glad you asked it again. The office of the Rentalsman is financed by an annual appropriation of the Legislature and therefore the financial transactions and financial statements of the Rentalsman's office are required to be included in the public accounts. The public accounts are audited annually by the provincial auditor and, therefore, this complies with the legislation of the Rentalsman's office, that requires the . . .

MR. SPEAKER: — Order, order. I believe the minister is out of order because that, in my view, doesn't apply to the question that was just asked with regard to guidelines.

MR. MERCHANT: — Mr. Speaker, I asked the minister whether Leslie Shaw, when he resigned, indicated to you that he found his relationship with you an impossible relationship and I ask you whether he gave to you as part of his reason for resigning that he had little confidence in you and I ask whether you would comment on his quote about you that he found "that the passive indifference of the minister to the problems that are . . ." . . .

MR. SPEAKER: — Order, order. Is this related to . . . Is this a supplementary?

MR. MERCHANT: — Yes, it's about the Rentalsman's department.

MR. SPEAKER: — The questions that the member asks as I gathered . . . I had trouble grasping it as well and I thought it was about the guidelines. It doesn't appear to be a guideline . . .

MR. MERCHANT: — Yes, it is. Yes, it is. I asked the minister whether part of the reason

for the resignation of Leslie Shaw was that and to use his words "he found that you had a passive indifference to the problems of the commission". I ask you whether refusing to set guidelines now will not mean that the Rentalsman is inundated in the coming year with applications because the government will not set guidelines?

MR. WHELAN: — Well, Mr. Speaker, we look very carefully at the operation of the Rentalsman and the Rental Appeal Board quite often and we didn't find any SkyShops or barn burning or harbor dredging of that sort but we did find that from an administrative point of view there were many things. This was indicated clearly the other day when we were discussing legislation. We were talking about a decision that had been handed down in which the judge of the court had found very clearly that the proper procedure hadn't been followed. Review of the entire operation of the Rental Appeal Commission indicated that the average . . . (interjection) . . . revealed very carefully that some of the decisions were as many as 14 pages in length and tenants, landlords, the law society, all these people said that they couldn't understand them. The judge's decision clearly indicates that. In addition it became quite evident that the hearings were, I think, caught up. We had got to the stage where only a handful of them were left to be heard. We felt that because of the fact - for instance, the landlord was asked by the commission to make an application that was 17 pages in length and we felt that this should be changed . . . (interjection) . . . well if they Appeal chairman wouldn't change it then the obvious thing for the government to do was to change the Appeal chairman and that's precisely what we would do.

Licensing of Drive-in Restaurants

MR. H.W. LANE (Saskatoon-Sutherland): — A question to the Attorney General. Since apparently the policy of your government is to increase the sale of liquor to the licensing of drive-in restaurants, could I ask the Attorney General whether he is aware of any correlation between this policy and donations to his party from Melchers and Seagrams and Labatts and London Winery and so on and in addition to this, could the Attorney General tell whether this is an explanation for the great Root Bear walking the way he does and the friends he hangs out with and so forth?

HON. R. ROMANOW (Attorney General): — Mr. Speaker, I am not going to make any comment on the question of the correlation because I think anybody who knows anything about the operation of the board and the commission would not put that question in the sense that he does. We'll just simply say that the question is whether or not it is the policy of the government to increase the sale of alcohol. The answer to that is clearly, no. The policy of the government is designed to warn the public about the effects of the improper and excessive use of alcohol. This is designed basically through the program of Aware. I think the hon. member would agree with me that outlets have been here, are here and will be here is a fact of life. Whether he and I agree that outlets should be closed as an attack on alcohol is another issue. The fact is they are here. What we have to do as responsible legislators is to communicate responsible attitudes towards drinking in dealing with those licensees. My point is that the policy of the government is definitely not to increase the sale of alcohol. The consumption of alcohol, outlets being available, I think, beg the question. The key question is changing attitudes and approaches to making sure that there is a responsible consumption toward alcohol.

MR. LANE (Saskatoon-Sutherland): — In terms of an approach of taking a responsible use and in terms of the Aware program, I would congratulate this government for what it has done so far. My question is, does the Attorney General not feel that the licensing

of fast food chains, is he not aware that this could lead to the responsible use because of the nature of the outlet?

MR. ROMANOW: — Mr. Speaker, I would have to take check into what the situation in fact is. If, however, the licence if it has been granted — I don't know if it has or hasn't. if it has that's fine — if a licence has been granted it can very well be granted I could see under some circumstances to a dining room separate and apart from any of the (what you would categorize) drive-in operation of a restaurant. I think we all know that in the case of using A&W, or any other there is a change in the delivery system of foods. I know that when I first was acquainted and introduced to A&W it was strictly drive-in car. To serve alcohol under those circumstances would be absolutely ludicrous. However, we all recognize the fact that there has been over the years a change - I don't pretend to defend A&W because I don't know their situation - but a change in the method of deliveries to dining rooms to menu cartes, to a full scale course of meals unrelated to the drive-in operation. Now under those circumstances it may very well be proper for the commission taking into account the character, the financial, and the experience to do such a licence operation. If that's the case I would not say that that's a fast food drive-in with all of its negative attributes as the member would ascribe.

MR. LANE (Saskatoon-Sutherland): — Supplementary . . .

MR. SPEAKER: — Order, I'll take the next question.

Colorability of Constitutional Law

MR. S.J. CAMERON (Regina South): — Mr. Speaker, I would like to raise an issue of some substance with the Attorney General. The Attorney General will be aware of the doctrine of colorability as it applies to constitutional law which prevents as it did in the AMAX case from the government using one provincial statute to deny the result which you attempted under another provincial statute, that is you can't effect a purpose with one provincial statute that you fail to effect with another that's gone down constitutionally, the Attorney General would be aware of that doctrine. Now in view of that and in view of the Premier's statement on television on Wednesday evening, that you as a government would pay CIGOL on the right hand its judgment, but on the left hand tax it away under Bill 47. I ask you, in view of that, how you propose to argue if the time comes that Bill 47 isn't a colorable attempt as it applies to CIGOL to simply retrieve what you lost under Bill 42?

MR. ROMANOW: — Mr. Speaker, obviously my answer this morning will be that we will meet that argument if, and when, it should be raised and I stress the words "if it should be raised". Let me say very generally, and very briefly in response to the hon. member, what The Oil Income Tax Act represents is a new taxation scheme retroactively. If, under that taxation scheme the sums that are collected retroactively and prospectively, correlate, incidentally or otherwise, (incidentally those are collected by Bill 42 or any other taxation scheme) that is an incidental impact of the legislation. I think that in those terms the Premier's words must be weighed.

MR. CAMERON: — By way of first supplementary to the question.

Do you not agree that it makes it far more difficult for you to make the argument that you aren't attempting to do in directly what you have failed to do directly, with the Premier indicating that what you give to CIGOL on the right you propose to tax back on the left. Now I ask you seriously, isn't that putting in your way some very serious difficulty in view

of that doctrine of colorability.

MR. ROMANOW: — Well quite obviously, Mr. Speaker, I cannot agree with the member's proposition. I don't recall the specific words of the Premier as quoted in the popular press but I think it is quite acceptable to say that a taxation scheme which is now presently before the House and presumably, or hopefully will get approval of this House, may collect X number of dollars. When asked 'how does that sum of X number of dollars relate to Y number of dollars, owing under a previously unconstitutional bill', if the answer is that there is likely to be very little change, very little exchange of hands, I do not believe that that raises the issue of colorability. All that it says is what presumably will be the fact, namely, that amount which is collected by The Oil Well Income Tax Act will approximate sums collected elsewhere constitutionally or unconstitutionally. I don't believe that that does fall in the area of colorability as the member suggests.

MR. CAMERON: — An additional supplementary, Mr. Speaker. Would the Attorney General be prepared to consider a suggestion and that's along these lines, that you take Bill 47 and split it into two parts, one part would apply to the retroactive period and a second bill would apply to the future period? I wonder whether you will consider that suggestion in view of the fact that the retroactive provision of the bill may be challenged and could bring down the entire bill and if you separated them in that way if there was a challenge with respect to the retroactive provision it could only bring down the retroactive portions . . . would you consider separating those two bills out, one for the future and one for the past, in view particularly of the doctrine colorability as it applies to the CIGOL situation.

MR. ROMANOW: — Well, Mr. Speaker, I am not taken by that suggestion because off hand my first reaction would be that indeed, in some ways, the argument of colorability might be heightened by that particular proposal and how it might be heightened by that particular proposal to bring down two bills; Bill 47(a), if you will and Bill 47(b); Bill 47 dealing retroactively and that might be argued by some as to indicate colorability

because it does seek to approximate the retroactive aspects. I, therefore, don't think that the suggestion has merit in that sense. I repeat again to the House, Mr. Speaker, that what Bill 47 represents - (a) and (b); what Bill 47 represents is a new taxation scheme and income tax scheme based on receipts less deductions and a tax on the net income and that is a retroactive scheme that's got to be viewed on its totality. I believe that that is the most direct form of taxation that can be set up and I confirm my view on the advice that I have obtained that indeed it is a constitutional bill, therefore, in its present form.

MR. SPEAKER: — Is the member for Estevan asking a supplementary?

MR. R.A. LARTER (Estevan): — No, a new question.

PCS Financial Statement

Mr. Larter: — Mr. Speaker, a question to the minister in charge of the Potash Corporation of Saskatchewan. In this year's financial statement under the notes at the back on Item No. 8, it states that the Potash Corporation has the option to purchase mineral rights at a cost of \$2,300,000 and that this option expires on November 7 and it is being renegotiated. I wonder if the minister could tell us if this has been renegotiated?

HON. E.L. COWLEY (Minister for the Potash Corporation): — Mr. Speaker, the answer to that is, yes, it has been renegotiated. The cost would be \$2.3 million if we exercised the option.

MR. LARTER: — Mr. Speaker, a supplementary. What are the terms and did you say that they have been renegotiated at \$2,300,000?

MR. COWLEY: — Mr. Speaker, I am not sure of all the exact details of the terms. If the member wants to put a question on the order paper, I will certainly get that for him and I will respond to it in Crown corporations. My understanding is and I am reasonably certain, that the option has been renewed if we exercised the option and bought the rights, the cost would be \$2.3 million and if you want to know the details of the agreement, I'm prepared to give you those.

Colorability of Constitutional Law

MR. CAMERON: — A new question to the Attorney General on the same subject area that I asked questions previously. If, in fact, you did separate the Bill 47 into two bills. One for the future period which I think is safe and one for the retroactive period which is questionable, could you not get around the difficulty that you recognize with the doctrine colorability as applying to the retroactive period, by getting from the oil companies written waivers from them not to sue or not to challenge it once you have negotiated a level of tax for the retroactive period? You could have the assurance from the oil companies could you not, not to sue, not to challenge the bill as it applies to the retroactive period?

MR. ROMANOW: — Mr. Speaker, I think that this obviously would be one way to solve the problem as the member suggests. I would point out to the member that presumably that option would also be available to the oil companies under the present wholly constituted bill if I can describe it that way, namely, waivers for any sums which are owing retroactively if there are bookkeeping and/or other problems which are tied into

that. It seems to me that that doesn't gain us very much in the end result. Of course what the oil companies do if anything with respect to the bill is something that is entirely up to the oil companies.

MR. CAMERON: — Supplementary. Mr. Speaker. Have you — I should indicate to the Attorney General that of course, the oil companies have indicated that they are principally concerned about the future period of the level of taxation, not so much the past period and that makes sense; the future has a much longer term attached to it than the past. I wonder if you would in fact consider, in the course of your negotiations, the kind of suggestion I have given you to see whether you couldn't get written waivers from those people who are readily identified because those are the people you have taxed over the past four years. By way of additional supplementary, have you sought . . .

MR. SPEAKER: — Order. We are getting near the end of time and one supplementary at a time. I'll take the minister's answer if he is prepared to answer.

MR. ROMANOW: — What's the question?

MR. CAMERON: — I was about to ask the question. The question is, have you sought co-operation with the federal government in having it possibly refer under its powers your bill, as it applies retroactively, directly to the Supreme Court for an early decision?

MR. ROMANOW: — The answer to the question is No, have not sought the assistance of the federal government for an early reference to the Supreme Court for much the same reasons that the Premier and others have indicated in days gone by in question period.

MINISTERIAL STATEMENTS

Appointment to Rental Appeal Commission

HON. E. WHELAN (Minister of Consumer Affairs): — I would like to report to the House and the people of Saskatchewan regarding some appointments to the Rental Appeal Commission. A vice-chairman was named primarily to allow us the option of offering a chairmanship to the present vice-chairman when she returns to Saskatchewan from educational leave. Diane Pask has served as vice-chairman of the Commission and has done a good job. Mr. Paul Husulak has been appointed vice-chairman; he is a Saskatoon resident who was a school principal for many years in that community; he's a graduate of the University of Saskatchewan and a journeyman carpenter. Other commissioners named are Mrs. Patricia Adams who is a graduate of the University of Saskatchewan and presently holds a number of elected positions in the community of Saskatoon; Tom Banda who is a resident of Regina having recently retired after 30 years service with the city of Regina; Gilbert Eamer who has an impressive background in the housing field and a member of the senate of the university and for 25 years a secretary of the Teachers' Federation; and Bill Sturby who recently retired after an outstanding career of 42 years in Saskatchewan's public service.

Mr. Speaker, I think these people are excellent members for the commission. They are active and they are considering the appeals that are before them.

MR. LANE (Qu'Appelle): — Just to respond to the Minister. First of all changes. I think,

were long overdue and particularly as a result of the judgment that came down as was the suggestion that they be changed, a suggestion of the Conservative Opposition. I would hope that the relationship of the commission with the minister is considerably more amicable than the last situation. I hope that the new members appointed have the same independence of spirit that Mr. Shaw had when he was involved in the rental legislation and I hope that in fact the results are considerably different. I hope that the next time that the commission doesn't have confidence in the minister that the minister looks inward instead of removing the people that he perceives to be his enemy.

MR. PENNER: — Mr. Speaker, I would like to express on behalf of our caucus congratulations to the people who have been appointed to the commission. I doubt that if in the past few years any appointees to any commission have had a more difficult job to grab on to than they do in the Rent Appeal Commission because I doubt Mr. Speaker, that there has been any commission or department of government that has been more poorly handled than has this area. When one looks at the history of difficulties in the courts, difficulties in being able to handle its own legislation, to live by its own legislation I can only say to these people, Mr. Speaker, that I wish them good luck. They're going to need it.

ADJOURNED DEBATES

SECOND READINGS

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

MR. R.N. NELSON (Assiniboia-Gravelbourg): — Mr. Speaker, I would like to add a few words with regard to Bill No. 47. My hon. member to the left said he would like to hear something new and I would like to say that it is time the Conservative Party stood up in this Legislature and just said something, not only something new.

I believe, Mr. Speaker, this particular issue has been misrepresented, misconstrued and completely taken out of context by the members in the opposite side of the House. Since they began speaking on this particular bill they have completely misinterpreted the real issue. Not at any time have they come to grips with the real problem. They are attempting to make an election issue of this entire fiasco. They are being completely dishonest with the people of the province of Saskatchewan. They are attempting to push the opposition parties into a corner and surprisingly enough they have already done that with the Tories to my left.

Fortunately, the Liberal Party in this Legislature has enough principle and honesty not to jump at quick political gains just to be on the popular side of a difficult issue. Too often this entire Legislature takes on a particular stance because it might sound popular in the hustings in this province. Thank goodness the people who represent the Liberals in this Legislature have enough intestinal fortitude to decide not what is political expedience but to decide what is right and what is just and what is honest and for that. Mr. Speaker, I am very proud to be in the Liberal caucus in the Legislature of Saskatchewan on this day.

SOME HON. MEMBERS: Hear, hear!

MR. NELSON (As-Gr): — The real issue, Mr. Speaker, is not whether or not the people

(This page is blank.)

trying to bide their time until another election has passed. After that election they will do as they did with the potash issue, they will expropriate, they will take over and they will nationalize the oil industry in Saskatchewan.

Mr. Speaker, I want to tell that group across the way, they will not ever have that opportunity. The people of Saskatchewan are on to them, they see what they are up to and they know they want control of the people. They know they want control of every possible business, every possible activity in this province, and this will not happen.

SOME HON. MEMBERS: Hear, hear!

MR. NELSON (As-Gr): — The people of Saskatchewan have heard the message and they have seen that they are not fit to govern our province. The ruling of the Supreme Court proves this government was wrong. This government did not heed sound advice. They were given good advice by the Liberal Party in this Legislature, they failed to heed it, and for that folly, Mr. Speaker, they will answer to the people of Saskatchewan. After the election, whether it be in 1979 or before, they will be thrown from office for their lack of ability to govern, for the inept way the Attorney General pushed through Bill 42 and for the way he is again attempting to rush Bill 47 through this Legislature, to again endanger the future of the entire province of Saskatchewan.

The Liberal Leader in this Legislature, Mr. Speaker, has asked the government to sit down, to negotiate, to talk to the oil companies, to come to a compromise so that they do not have to return any money. The government should have by this time admitted it was wrong and have begun arranging those negotiations. They should have set into motion the testing of the constitutionality of this particular bill but they have not. They have not, Mr. Speaker, because they do not really care. They do not care whether they are within the law or without the law. They rule by supreme power according to those across the way.

Mr. Speaker, much more has happened than just the unconstitutionality of Bill 42. This government has crushed the entire oil industry in this province. In a time when energy is so important in the province of Saskatchewan we find the exploration has been at an all time low. We find that the oil companies have run from this province as though we had the plague. They have completely lost faith in this socialist government. They do not trust the Premier, they do not trust the Attorney General of this province. While I have no personal great feelings for the oil companies in this country, I do believe we need their expertise and we need their help in exploring our oil resources. This has not been happening nor will it happen under this social government.

Now what is happening in Bill 47? The Premier and the Attorney General are asking us to give them a ticket to sit down with the oil companies behind closed doors. They are asking us to trust them to sit down with the big multinational corporations as they call them, so that they have Bill 47 over the heads of these companies. They want to make a deal behind closed doors to allow the oil companies to stay in the province and to allow this government to keep the money that they were to return because of the failing of Bill 42.

They want us to believe that they will be honest and I say to you. Mr. Speaker, I do not believe and I will not buy that particular point. Had they proven their sincerity since 1974, we might have out some trust in their ability. They have proven to me and to the people of Saskatchewan they have not the ability to make an honest deal. they have not the ability to convince anyone that they will be fair. They will not be trusted in any

negotiations and the companies which they deal with will not trust them.

They cannot entice any outside oil industry to come to develop in this province. Bad as that may seem, it is also true that other industries have decided that Saskatchewan is out of bounds, that the socialists in Saskatchewan are not worth dealing with.

Mr. Speaker, the tactics and the policy of this government, as they intend to follow in Bill 47, were made abundantly clear by the Attorney General in his opening remarks on this bill. It is being made just as clear by each and every speaker opposite as they stand up and follow the lead of the Attorney General. Their intention is to stand up and tell untruths, their intention is to stand up and tell that lie over and over and over again. They fully intend to continue telling that lie, hoping the people of Saskatchewan will believe it. Mr. Speaker, they are underrating the people of our province.

SOME HON. MEMBERS: Hear, hear!

MR. NELSON (Assiniboia-Gravelbourg): — They are underestimating their ability to size up this government. They believe that if they say it often enough that lie will sound like the truth to the citizens of Saskatchewan but that will not happen. I say to the Attorney General and the Premier, if you want support for this bill, if you are honest in your intentions on this bill, then bring in that bill in two parts. Bring in legislation that is within the law of the courts of Canada, legislation to collect, retroactively from 1974 to date, that money that rightfully belongs to the people of Saskatchewan.

In the other part of that bill, spell out the taxation you intend to charge the oil companies of this province, spell it out loud and clear and you won't have to go behind those closed doors to make deals for the future. You show us that this bill in both cases is constitutional and you will get support from the Liberal Party on that bill, the only party in this Legislature that is above playing political games when the people of Saskatchewan are faced with such a financial fiasco . . .

SOME HON. MEMBERS: Hear, hear!

MR. NELSON (As.-Gr): — The Minister of Mineral Resources has played in enough poker games to know that unless he puts all the cards on the top of the table the players will go home. The oil companies aren't going to stay just because it is the only game in town. They want to see the cards and if they see the cards for the future, they won't take back the ante they already have in the pot. There's a much better chance of keeping the game going and I recommend the government to look into this possibility. Mr. Speaker, this entire situation reminds me of a farm machinery dealer selling a tractor to a customer only to find out that back four years when he signed the contract, the contract was not filled out properly and was not legal. When the customer came back to the machinery dealer he said he wanted full warranty; he had used the best out of that tractor but he wanted his money back and that just isn't common sense, Mr. Speaker. Let us think about what that dealer would be wise to do. Would he be wise to take that old tractor and patch it up and send the customer on his way or would he be using more common sense and logic to say to that customer, bring in your old tractor, you've had good and full use out of it, it really owes you very little? I'll make you a deal on a new model and you'll be able to look after your future with that new tractor and we'll forget about that old deal. You won't get your money back but by getting a new model we'll both be satisfied.

What I am saying, Mr. Speaker, is that it's time for honesty, for negotiation and for

common sense and all within the law of Canada. If this government opposite shows us that that's what they are willing to do, Mr. Speaker, then we could support that legislation.

SOME HON. MEMBERS: Hear, hear!

MR. D.G. BANDA (Redberry): — Mr. Speaker, I think it's important that members of the Legislature get up and express themselves on Bill No. 47. After listening to the member for Assiniboia-Gravelbourg I can say one thing about the members of the Liberal caucus, they say where they stand on this bill and that's on the side of the oil companies and not on the side of the people of Saskatchewan.

Mr. Speaker, I want to voice my unqualified support for the intent and reasoning of this Bill No. 47. In doing so, I also want to voice my unqualified support for the resource taxation and management policies of this government. Since the Supreme Court announced its retrograde decision respecting Bill 42 on November 23, I have made a point of speaking to as many of my constituents as possible. I want to tell you, Mr. Speaker, and other members that I have met a good number of them since November 23 at various meetings and functions that I have attended. I want to tell you as well that most of these functions and meetings were not arranged by any political group and were non-partisan in nature. The Supreme Court decision came up in conversation with almost every one and almost without exception the advice I was getting from my constituents was that they wanted me to come back here determined not to give one nickel back to the oil companies, not one nickel! They wanted the government to act as quickly as possible to see that we get the revenues from our oil which morally belongs to us.

Mr. Speaker, no doubt other members have done as I have done since November 23, talking to their constituents and to the people across the province. In the case of one member at least, the member for Nipawin (Mr. Collver), the Conservative Leader, the effect of public reaction couldn't be more obvious. I will have more to say a bit later in that connection because the double talk and backtracking which have become the trademark of the Conservative Leader were never more obvious than they are in this issue. I want people to compare his November 23 comments to his December 5 comments after he got the message from the voters. Time permitting, I may also want to comment on his harebrained notion that we go the Alberta route, the Syncrude sell out and the whole works.

Mr. Speaker, the bill before us, Bill No. 47 is central to the resource policies of our government. Our policy starts from the premise that this government, the provincial government, has exclusive jurisdiction over the natural resources of this province, not the Trudeau government at Ottawa and not the multinational resource companies. The premise is not unfounded, Mr. Speaker. Section 92 of the British North America Act lists as exclusive power of the provinces, "The management and sale of public lands belonging to the provinces and of the timber and the wood thereof." We have to remember, Mr. Speaker, that the BNA was written in the 19th Century and people's perception of the wealth of this nation was considerably different at that time than it is today.

Further to that section of the constitution an agreement signed by the government of Canada and by the government of Saskatchewan in 1930 put into law The Saskatchewan Natural Resources Act and its intent. It stated in part, "All sums due or payable for such lands, mines, minerals or royalties shall come from and after the coming into force of this agreement belong to the people of Saskatchewan." That's pretty clear language. Mr. Speaker, that we say is unequivocal in granting to Saskatchewan exclusive jurisdiction in the taxation and management of our natural resources. Not for a little revenue, Mr. Speaker, it says all sums due or payable belong to the people of Saskatchewan. Based on that premise and our philosophy that people are capable of managing their own affairs without multinationals or high-priced management associates for that matter, our party has said in pretty clear terms that we would seek to develop or have developed these resources in such a manner that the people of the province would gain the maximum benefits in terms of revenue, in terms of jobs, in terms of good husbandry of the resources in question and in terms of protection of the environment. That was our policy, Mr. Speaker, that is our policy and that will continue to be our policy.

SOME HON. MEMBERS: Hear, hear!

MR. BANDA: — This bill, in principle and in fact, is central to that policy. Now members opposite might stick to the view that the government that governs least, governs best. However, at odds with that sloganeering, Mr. Speaker, the Conservative Leader came into this House on December 5 and stood in his place and said he would support the bill in principle. Perhaps we should, in good Christian charity, welcome this modern day Saul on his way to Damascus, Mr. Speaker. I, for one, would be more inclined to do so if I saw solid evidence of his conversion. Perhaps if I had it in writing, maybe I would be convinced. I am more inclined to think it is just Dick on his way back from Nipawin looking for a more comfortable political hole in the ground, used or otherwise, that he could crawl into while the storm over his first comments blow over.

On December 5, the Leader of the Conservative Party stood in this House and said that he and his group would support the principle of this bill, that we really ought to, "get in there" and "really dig for what is ours, at least half of what is ours." I invite you. Mr. Speaker, to compare his sentiments of December 5 with those he expressed on November 23, when he came into this Assembly and moved a priority of debate. On that day, hours after the Supreme Court had announced its decision, he was calling on us to decide, to announce a decision. The decision he recommended was that we ask Trudeau and Lang to fix things up, knowing full well that the kind of fixing in which these two gentlemen might be interested, had already occurred. In the course of his remarks in that priority of debate, the Conservative Leader had this to say and I quote from page 171 of Hansard:

We, meaning the Conservatives, do not believe in addition, that it is possible for the government of Saskatchewan, no matter what legal technicalities they try and come up with, we do not believe that it is possible for the government of Saskatchewan to enact any legislation in relation to the half a billion dollars.

That's what he said, "We do not believe that it is possible to enact any legislation."

December 9, 1977

He said it more than once. And he said in more ways than one, which is his double-talk trademark. On December 5, after he put his finger to the wind he announces with a smug little smile, after his conversion, he will support Bill 47, in principle, a retroactive piece of legislation.

Now on November 23, the Conservative Leader was seconded in his remarks by the member for Qu'Appelle (Mr. Lane), that Clarence Darrow of the Conservative caucus. He said, and I quote from page 180 of Hansard:

The motion indicates as well the very great danger of retroactive legislation. The Attorney General, as a lawyer, the Premier, as a lawyer, know that it is a fundamental rule that government once ruled against on a matter such as this cannot do indirectly that which it could not do directly.

That's what he said, Mr. Speaker. "A fundamental rule."

Now on December 5, when his leader announced support in principle (and I underline in principle) . . . announced support for the concept and idea of Bill 47, he too sat with a smug little smile on his face.

You know, Mr. Speaker, a few days ago there was a news item, the member for Nipawin (Mr. Collver) purchasing the prize lamb at the Agribition and he paid a handsome price for it. I think he and his Clarence Darrow have been busy fleecing that lamb in the hope that they will get enough wool to pull it over the eyes of everyone in this House and in the press and the people of Saskatchewan.

SOME HON. MEMBERS: Hear, hear!

MR. BANDA: — They won't get away with it, Mr. Speaker, because the people are starting to catch on to this double-talk. He is going to have to content himself with the lamb knowing its the only thing he can fleece without winding up in trouble.

If the press in this province was doing its job, Mr. Speaker, this phoney double-talk and political opportunism would be exposed for what it is. I guess that would be expecting too much from the press, dominated as it is by the Sifton boys who indicated their colors in the last election by donating to the Conservative campaign, completely in contravention of their expected non-partial role.

Mr. Speaker, the Leader of the Conservative Party went even further on December 5 in his endorsement of Bill 47. The record will show that he suggested Bill 47, retroactive and all, Bill 47 could have been used to solve the deadlock we faced with the potash industry in 1975. On November 23, Mr. Speaker, he was saying such legislation was not possible for the government to enact on December 5, and he tested the wind, Mr. Speaker. Everything was possible. It could even be applied to potash, an entirely different situation in its technicalities, Mr. Speaker.

The member for Nipawin isn't bothered by technicalities, legal, moral, or otherwise, Mr. Speaker. I suggest to you and to the members of the press and to the public, that this is a sign of his latest escape hatch. The Attorney General, in moving second reading of Bill 47, ably exposed the Conservative Leader's most popular harebrained notion regarding the Potash Corporation, when he discovered that the member for Thunder Creek was ready to become one of the fabulous fifty, perhaps even to serve as the

chairman of that board of the fabulous fifty club. True to form, Mr. Speaker, later the same day the member for Nipawin was looking for a political hole in the ground, and he found it, Bill 47. Apply it to the potash says he with even the slightest second thought. The people of Saskatchewan weren't now nor will they be fooled by this political performance.

On December 5 the Conservative Leader also promised an amendment to Bill 47, Mr. Speaker, suggesting we exempt small companies from The Oil Well Income Tax Act. He conveniently ignored, Mr. Speaker, the existing provision for the exemption from liability for tax of owners of producing tracts aggregating less than 1,280 acres. He completely ignores that provision, Mr. Speaker, in his political grandstandings.

One is forced to ask - what is it he means by 'small companies'? Mr. Speaker, less than a year ago he was commenting on Bill 42 and the court challenge by CIGOL and Imperial Oil. The Leader Post of January, 77 quotes him, Mr. Speaker, as saying:

Small companies such as CIGOL have nothing to lose by challenging the constitutionality of Bill 42.

That's what he said. "Small companies like CIGOL." Now he wants to exempt small companies like CIGOL from the taxation. Well, Mr. Speaker, I would tell you more about CIGOL, but I believe I told the House when I was speaking in the Throne Speech Debate, just who CIGOL is and who Norcen is. I won't tell this House again. All I want to say is that is the small company that the Conservative Leader was talking about in January, 1977, and I suggest that's the kind of small company he was talking about again on December 5 in this House.

There isn't a better expert in this House than the member for Nipawin when it comes to one company setting up another and holding companies and the like and the transfer of shares and funds back and forth between them, Mr. Speaker. If he's not talking about CIGOL when he speaks of small companies, perhaps he is talking about an enabling amendment that would allow his friends in the resource development business to get into that kind of a game. And that is certainly not the kind of a game this government of the people of Saskatchewan want to see happening in regard to our natural resources and the legitimate return the people can expect from them.

Before I leave the matter of CIGOL and the constitutional authority of Bill 47, I have one additional observation I wish to make, Mr. Speaker.

December 2, 1977, the Leader Post carried a little story on page one. They had been talking to a lawyer well known to the members of the Conservatives and especially the member for Nipawin, a Mr. Bill Elliot, who is also a lawyer for CIGOL. Remember, Mr. Speaker, CIGOL are the people who attacked Bill 42 as unconstitutional along with opposition members opposite, aided and abetted by the Ottawa government. Elliot was being asked about Bill 47 and I want to quote the article.

Elliot said whether or not the oil industry would again challenge the legislation depends on the intent and attitude of the government. Elliot said that speaking personally, if it appears the government is acting in a conciliatory manner, it is likely the industry will keep the proposed legislation out of the courts.

And then they go on and I quote: "It all depends on the rates, Elliot said."

That, Mr. Speaker, was the comment of the counsellor for CIGOL and the counsellor for the Member for Nipawin "It all depends on the rates" and "if the Government is conciliatory we'll keep the thing out of the courts." Nothing to do with the constitution, Mr. Speaker, nothing to do with direct or indirect taxes, nothing to do with interprovincial trade and commerce - the rates, Mr. Speaker, that's what it has to do with plain and simple. That's what the original opposition was all about and that's what any future opposition will be all about.

As a member of this Assembly whose job it is to help make the laws of this province, I want to tell the mouth piece of conservatism that the laws are made here in this Assembly and not in the CIGOL board room with or without the member for Nipawin, or the member for Wascana or Lakeview or anyone else in attendance with them.

Mr. Speaker, one of the original brain waves of the member for Nipawin said we should go to the Alberta route, Syncrude and all. It was pointed out to him that it would cost us roughly half of the revenue at stake. Like a scolded school boy he finally came into the House and said, Mr. Premier, please show me how you figured that out. Two years ago he was whining because he didn't get enough money for research, now he has a collection of rejected Liberal hacks around him and he calls in this House and cries for the Premier to get the figures for him. Surely, surely, Mr. Speaker, he has some responsibility as a member of the Legislature let alone to know the consequences of what he sees before he sees it, Mr. Speaker, I am disgusted and I am even more shocked at the weak-kneed press that has not exposed his phoney performance.

Mr. Speaker, as I said at the outset of my remarks, this bill is central to our resource taxation and management policy. I'd be surprised if the members opposite have undergone a real conversion. I don't think they have. Regardless, Mr. Speaker, this debate has helped the people of Saskatchewan to gain an understanding of the issues involved even if the members opposite haven't gained that understanding. That much at least has been accomplished. I believe this bill will retain for us the revenues from the resources which properly belong to us and I will be pleased to support the bill, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

HON. J.R. MESSER (Minister of Mineral Resources): — Mr. Speaker, on entering this debate I can think of no other time that I have had a greater feeling for support of a policy of a bill introduced by the New Democratic government of Saskatchewan. I say that especially, Mr. Speaker, as Minister of Mineral Resources who has had some opportunity to involve myself directly in the mineral development, the resource development of this province and I say to you, Mr. Speaker, that it is this government that has kindled the kind of development, the kind of economic benefit and the kind of security that Saskatchewan people have demanded and long sought. They have that now and they see an opportunity for growth if this government continues to pursue and to implement that kind of forward policy.

Mr. Speaker, we base that on a constitutional right, we base it on a moral obligation and a moral right and we know that the people of Saskatchewan say that is clearly, clearly the responsibility of a provincial government. Now that, Mr. Speaker, is what this debate, I think, is substantially about. Maybe what it is really all about, about resource development in the province of Saskatchewan, about development in this province, but development, Mr. Speaker, for whom? Who is going to gain from the activity that this

government or governments encourage to take place in regard to resource development? Who, in effect, should ultimately benefit from those developments? Whom do the rewards go to? Whom do the benefits go to? Well, Mr. Speaker, in listening to the members to your left, the members from the Conservative caucus and the Liberal caucus we have heard them repeat time after time after time, that the benefits should go to the developers. The rewards and the benefits, Mr. Speaker, should go to the multinationals. Those rewards and those benefits should go to their friends, to their financiers, to their backers. The rewards and their benefits, Mr. Speaker, should go to their only real supporters.

Now I know, Mr. Speaker, and I hear some static from the members to your left but they like to wiggle or wobble a little bit with the issue. They want to undertake to confuse and mislead the population and the electorate of Saskatchewan because they know full well once those people have a full understanding of what they are really saying in this Legislature in regard to Bill 47, their hopes of support are totally gone, totally lost.

Now, Mr. Speaker, let's just for a moment look at the Liberal Opposition tactics if I may start there. It is only a week or two ago, Mr. Speaker, that they were saying that this government was obliged to have an instantaneous, a spontaneous, an immediate resolution to the Supreme Court's decision. In fact those members of the opposition, both parties of the opposition, moved a priority of debate before this government even had the opportunity or the satisfaction of looking at the decision, the written decision of the Supreme Court of Canada. The Liberals were most ambitious to have the government display or convey to them what our resolution was. The only thing that was displayed to them was their inability to really be able to attain the debate that they wanted to take part in because they gave the member for Nipawin (Mr. Collver) the Leader of the Conservative Party the whole stage and the whole form to I think second another 15,000 or 20,000 votes from the people of Saskatchewan who might have been thinking Liberal up to that point in time.

But anyway, Mr. Speaker, after that dismal performance and after think they spent several days out in the constituency talking to people, they realized that they had chosen the wrong strategy. Then they came back asking for delays, pleased the government should not move. It's doing this too hastily. Let's take three or four or five or six months or as the member for Regina South proposes, allow the Supreme Court to decide whether the legislation is going to be *intra vires* or *ultra vires*, prior to giving it Royal assent. It may go on for 18 months and we may be in a situation of jeopardy in relation to substantial incomes of the province of Saskatchewan should be collecting. Mr. Speaker, the member said he gave another idea this morning and it's like night and day comes and there is a different suggestion coming from them every time and everyone is left by the wayside because after it has been given the opportunity to be scrutinized, we find out that it is virtually worthless and that is consistent with Liberal and Conservative policy, Mr. Speaker.

But anyway, Mr. Speaker, they also undertook to attack and criticize the alternate legislation that we have brought forward. They criticize us for the right, the right of this government and its members and for that matter, the right of the people of Saskatchewan to criticize the Supreme Court decision. Now the member for Indian Head-Wolseley, and I am sorry that he's not in his seat at this particular time, was so concerned, so concerned about continuing the debate in the House in regard to this most important bill, that several days ago he moved to adjourn the House. I think that's an indication of how important they think this particular piece of legislation and this resolution is to the people of Saskatchewan. Now, Mr. Speaker, they are saying that

they don't really know what they want to do. Every one of the members has a different solution. The member for Assiniboia-Gravelbourg, he's got a solution. The member for Regina South, he's got one; it's somewhat different. The member for Indian Head-Wolseley has a different solution; the member for Wascana, he's always different from all of the rest. Nevertheless, he advocates yet another and a different solution. Mr. Speaker, I think that whatever that solution is, regardless of what it is, the members to your left, Mr. Speaker, will vote against it. They will vote against it because they are not out seeking a legitimate correct answer to this problem that is in the best interests of the people of Saskatchewan.

Now, Mr. Speaker, let's talk a moment or two of reviewing what the Conservative members sitting to your left have said during this debate. They weren't substantively different, not substantively different from the Liberals initially. They were in a great rush to have this matter resolved within hours. It was absolutely essential that this problem be resolved by the time the week was over when the Supreme Court decision was made available to the province of Saskatchewan. Now, along with that, the member for Nipawin, the Leader of the Conservative Party, suggested that the answer was a federal government bail-out. Ask the federal government to make the payments on behalf of the province. It's not correct; it's not correct for the people of Saskatchewan to pay it back and I agree with them there. At least he's a little more political than the Liberal members are. He knows the mood of the Saskatchewan community. He thinks, well, I've got two masters to serve here. I've got the oil companies on one hand and on the other hand I would like to second or solicit a few more votes from the electorate in Saskatchewan. Hopefully, they will come from the Liberal, the dying Liberal party, so his alternative is to ask the federal government to bail out the province of Saskatchewan for its negligence. Now, Mr. Speaker, what amazing logic. The member knows full well that it has been stated in this Legislature before it was the federal Attorney General who intervened and not on behalf of the province or the citizens of Saskatchewan but on half of the oil companies. It's not very likely, Mr. Speaker, not very likely that the federal government is going to have much sympathy for the province of Saskatchewan when you've got that kind of an attitude in the Cabinet in Ottawa. In fact, Mr. Speaker, I think the member, the MP, the only Cabinet minister for the province of Saskatchewan was then Attorney General when that decision was made. Attorney General for Canada and he's got quite a consistent record, quite a consistent record of being against everything that Saskatchewan requires. We only have to go back a few short years and the debates are still ongoing where he has

demonstrated his opposition to adequate solutions to the transportation problem in this province; where he has demonstrated his opposition to corrective freight rate measures so that we have advantages for industry and agriculture in this province. His opposition to orderly marketing and now more recently, Mr. Speaker, his opposition to Saskatchewan's rights to resource development and the money that is generated from those activities.

Now, Mr. Speaker, the second recommendation that the member for Nipawin, the Leader for the Conservative Party gave was to simply lift, lift the Alberta legislation and apply it to the province of Saskatchewan. Well, Mr. Speaker, the member knows full well and I have conveyed to him on a number of occasions, that that clearly is no answer to the problem because he knows full well that if we took the Alberta legislation and lifted it and applied it as it is applied in Alberta, that we would lose an excess of 50 per cent of the revenues that we have collected and we would continue to lose 50 per cent of the moneys that should be accruing to the province of Saskatchewan.

Now, Mr. Speaker, I think the key question to ask here is why does he make these proposals? I'll tell you first. because the money if it was to come from the federal government, it would go to the oil companies and virtually they would get away Scott free. They'd get their half a billion dollars or whatever it may be. Not from the taxpayers in Saskatchewan but from the federal taxpayer and from his point of view, he's achieved his purpose by being able to satisfy the oil companies, which he has to substantively represent in this House. In a second, Mr. Speaker, he was at least giving them half of what they should not get and that is by applying the Alberta legislation. Now, Mr. Speaker, we also have to ask them, where do they really stand when the crunch comes when they have to decide what has to be done in order to assure Saskatchewan citizens that they will be able to continue to enjoy the benefits from this resource? Where will they vote, Mr. Speaker? The member for Nipawin says call for the vote and we'll be getting around to that in the not too distant future and we're going to be interested in seeing where he is going to stand. I'll suggest, Mr. Speaker, even though what they have said. they are going to vote against this bill. They are going to vote against and they're

going to vote against this bill, Mr. Speaker, the Liberals, because they've always been against change, they're against really acquiring a rightful benefit to the people of Saskatchewan; the Conservatives, for substantially the same reasons, only because as I said earlier, the Leader of the Conservative Party is a little more political than the Liberal Party. He recognizes that there has to be some reason for him, some reason for him to defeat the bill in third reading. So he has conjured up an amendment or two which he says they'll introduce during Committee of the Whole. And because those amendments quite likely will not be supported by the government because of their obvious deficiencies, that will then give him the reasoning for voting against the bill in third reading.

Mr. Speaker, I predict that both the members in the Liberal and the Conservative caucus, both caucuses will end up voting against this bill to resolve this dilemma that not only the province of Saskatchewan but the people of Saskatchewan are confronted with. They'll both buckle under to that same force to the intimidation that the companies have on them.

Now, Mr. Speaker, it in fact I think proves one thing, this debate has proved one thing. The members opposite were sensitive several days ago when I referred to them as puppets of the multinationals and as I have sat here over the last four or five days since making that statement and listened to their debates, I think it proves that the statement that I made at that time was right, and it hit all and it hurt, Mr. Speaker.

MR. COLLVER: — I rise on the point of order because the minister has suggested that what we have stated in this Legislature that we would support the bill as Progressive Conservatives is untrue. The fact of the matter is, the point of order, Mr. Speaker, is, the point of order may not reflect . . .

MR. SPEAKER: Order, order!

MR. COLLVER: — You've asked me the point of order.

MR. SPEAKER: — I don't want a speech from the member I just want the point of order.

MR. COLLVER: — Fine, the point of order is I understand it is incorrect for members to reflect on the veracity of what members say to this House. If we say we are going to support the bill he may not say that we are not.

MR. SPEAKER: — Order. I think it's sometimes very difficult to determine in this Chamber whether a member is questioning what some other person has said or whether a member is debating an issue. And I propose to say at this time that I was quite clear in my mind that the member was debating the issue and the member for Nipawin has had an opportunity to get into this debate and debate the issue as well. And I'm sure all other members will be taking advantage of that opportunity to get into the debate and, in fact, refute what they believe to be untrue about what any other member has said. Now I want all members to avail themselves to that opportunity, so we have the Member for Tisdale.

MR. COLLVER: — The point of order is that you have said before in this Assembly that if a member . . .

MR. SPEAKER: — Order.

MR. COLLVER: — Mr. Speaker, you have said before in this Chamber that if a member rises to his feet and says, as a result of another member stating what the member said, which is what the minister has done. You have said that the minister or the member who has stated that, must take the word of the member who stands on his feet and says this is what our position is and this is what we state as fact. We have stated that we are going to support this bill, the minister has said today that we will not support the bill, he is, therefore, saying to us that we did not tell the House the truth. That's the point of order.

MR. SPEAKER: — Order. I think the member is correct in that he has stated, and I believe, I heard him state that he will support the bill. Now, apparently, the other member feels that there is some doubt about that and — Order, order. I said, apparently the other member feels there is some doubt about that. The other member who is speaking has to accept the fact that you have said that. Now he is questioning whether you meant it or not. That's permissible for him to speculate on that, but he has not said that you didn't say it.

MR. MESSER: — Well, Mr. Speaker, thank you very much for your ruling, Mr. Speaker. And I've heard the member for Nipawin suggest that he may be supporting this bill in third reading, Mr. Speaker. I've heard nothing, nothing, Mr. Speaker, from any of the other members of the Conservative caucus. It seems to me, Mr. Speaker, that on such an important piece of legislation as Bill 47 we might at least hear a word or two from at least one other member in the Conservative caucus, but it is silence, Mr. Speaker. And I'm suggesting to you that because of that silence, the leader of the Conservative caucus is having trouble convincing his members that they should, in fact, support this bill, Mr. Speaker. And I suggest, Mr. Speaker, that they may even have problems supporting this on second reading never mind during the Committee of the Whole or third reading. I think the ranks are beginning to break up I look to your left, Mr. Speaker, and I see absent two very important members of the Conservative caucus when we're talking about oil industry in Saskatchewan, the member for Estevan and the member for Swift Current. I wonder why those members are not now here. Have they lost control of those members, Mr. Speaker? Has he forbidden them to come in the House for fear that they'll jump to their feet and defend the oil companies, as we know they really want to do. Mr. Speaker, it's strange, indeed, when we sit in this house and seethe member for Estevan day after day trying to display a concern about oil development in his constituency. He's got the silliest questions of anybody in this house. But when we come to a real point, a real issue in regard to the oil activity in the development and the money, therefore, derived in this Legislature he's not here or he is solid. Mr. Speaker, the same applies to the member for Swift Current and I say that it is a shame and a sham for those members to pretend to represent those people in those constituencies and not utter one word in relation to this debate.

SOME HON. MEMBERS: Hear, hear!

MR. MESSER: — And, Mr. Speaker, I suggest to you again that's why the ranks are rumbling in the Conservative caucus. And we'll see when the vote comes, Mr. Speaker, as to who they are really going to support in relation to this legislation.

Now, Mr. Speaker, they want to ask a question, Mr. Speaker, because I see the member for Estevan and the member for Swift Current are not here and I'll be asking for questions too.

My goodness, we're beginning to smoke them out. And I suspect that when he goes home this weekend that he'll have some constituents asking him where he stands on this issue. Mr. Speaker, and I hope he's got the intestinal fortitude, Mr. Speaker, I hope, he has got the intestinal fortitude when he returns Monday to tell this Legislative Assembly what his constituents told him and where he is going to stand.

SOME HON. MEMBERS: Hear, hear!

MR. LANE: (Saskatoon-Sutherland): — On a point of Order. Mr. Speaker, is it in order, in my limited experience in the House - the point of order is this, for the government members to bring in a bill and ask for the opposition to support it? It doesn't seem right that they would bring in a bill and then ask us to defeat the bill. We want to support the bill.

SOME HON. MEMBERS: Hear, hear!

MR. LANE: — Is that standard procedure?

MR. SPEAKER: — Order! Order! I don't believe that is a point of order. I think all members understand that any member is free to support or not support a bill. Any member is free to call on any other member to support or not support a bill. It is not a question of a point of order.

MR. MESSER: — Now I think it is even more imminently obvious why the leader of the Conservative caucus keeps his members silent. He may talk about limited experience but I think that is just a gross display of absolute stupidity in relation to how this House operates.

Now, Mr. Speaker, there is another matter, there is another matter that members opposite have been raising in this House consistently. Mr. Speaker, they have been I saying in this Legislative Assembly and in the province of Saskatchewan that this government has no regard for the law - the member for Assiniboia-Gravelbourg and I am going to get to some of the things that you addressed yourself to earlier, Mr. Member in a moment or two.

They say that we are above the law, that we don't care about what the law is, what the laws of Canada are. Now I don't, Mr. Speaker, believe no matter how hard they try they will ever sell the people of Saskatchewan in regard to that position. I say that, Mr. Speaker, because our record speaks loud and clear in regard to law and order. But, Mr. Speaker, I have heard the member for Assiniboia-Gravelbourg, the member for Wascana, indeed the Leader of Liberal Party, the member for Morse, time after time after time say that this government has no regard for the law and they are trying to sell the people of Saskatchewan. The member for Regina South says the same thing.

Well, let me quote a few things that the last Liberal speaker said, the member for Assiniboia-Gravelbourg. He said that the Liberals operate on principles and on honesty.

Well I certainly wouldn't want to go to the electorate of Saskatchewan if I was a Liberal on the platform of principle and honesty that's for certain, not if I was a Liberal. He says that they don't jump for political gains. This is a quote, Mr. Speaker, "We believe in what is right, what is just and what is honest." And then he goes on to say this matter that we are debating is not whether we pay back the money it is do we believe in the laws of Canada. If he said that once in his speech he said it four or five or six times and I won't dispute him. Do we believe in the laws of Canada and/or do we believe in the laws of

Saskatchewan?

Let's look and see who is showing a blatant disregard for law. Mr. Speaker, yesterday, December 8th was the day that all parties were to file their election expenses in the Pelly by-election. December 8th, it is a law in the province of Saskatchewan that on December 8th all parties who participated in that election provide the expenses. So I thought it would be interesting to see whether all of these parties gathered in this Legislative Assembly in fact submitted their election expenses and if so were they within the laws of the province of Saskatchewan. Now, Mr. Speaker, the New Democratic Party has filed its expenses and they are in order. There is a ceiling of some \$10,000 and they are in order. We have a member here - Mr. Lusney who has displayed an amazing capability and potential as an MLA.

Now, Mr. Speaker, as of yesterday, the dead line, there was no return from the Conservative caucus, no return from the Conservative Party in the province of Saskatchewan, in spite of it being the law they have chosen not to abide by the law, Mr. Speaker. One has to ask, will they file a return? One has to ask if they haven't filed a return, why haven't they filed a return?

I am sorry that the Leader of the Conservative Party is not here to hear this because he goes about this province speaking and preaching law and order at every opportunity but here is a distinct position that indicates that he has a disregard for that law. Now, Mr. Speaker, the Liberals on the other hand filed a return. They met the deadline. But when one looks at how much money they expended on that by-election, knowing full well, Mr. Speaker, with three lawyers sitting in their ranks that the ceiling is \$10,000, did they limit themselves to \$10,000, Mr. Speaker? The people of Saskatchewan will be interested in knowing that the answer is No. Did they spend \$15,000? No. Did they spend \$20,000? No. Did they spend \$25,000? No. Did they spend \$30,000? No, Mr. Speaker, they spent \$31,000 or \$21,000 more than the law of Saskatchewan said they can spend. Mr. Speaker, \$21,000 in excess. There, to your left, Mr. Speaker, the Leader of the Liberal Party, a lawyer, the member for Wascana, a lawyer, the member for Regina South, a lawyer, and the rest of their colleagues are saying that this government has no respect for law and order and yesterday they filed a return with an expense in excess of \$21,000. They broke the law, Mr. Speaker. They broke the law and they are quiet. They're not now saying the government of Saskatchewan has no regard for law and order because the obvious example is that they still showed no regard for law and order whatsoever and that is distinct proof of that. Now, Mr. Speaker, I was in, I was in Pelly, I participated in that by-election and I suggest to you that if the Liberals spent \$31,000, the Conservatives spent \$50,000 and that's why there's no election return, Mr. Speaker. How much money did they spend and the member for Estevan said \$5,000. Well, I'll be interested in seeing your return and so will the people of Saskatchewan. I suspect the Liberal Party will be interested in looking at your return as well.

Mr. Speaker, why have they not filed that return? Because their expenditures are over? Because there are yet more gross irregularities that they're concerned about? Well I, Mr. Speaker, believe we should know. I believe we should know and I believe that the people of Saskatchewan should know. The Liberal Party say that they would like to know. They ask, Mr. Speaker. They would like to know what we have spent and they can go to the Chief Electoral office and they can look and they say they will and I invite them to and I am sure that the chief electoral officer will accommodate them because we abide by the law. But, Mr. Speaker, the people of Saskatchewan should know and I think that it might be appropriate if I was to ask the Attorney General to undertake to investigate if they don't undertake to do it satisfactorily themselves.

SOME HON. MEMBERS: Hear, hear!

MR. MESSER: — Now, Mr. Speaker, we have nothing to fear in regard to our expenses and I would suggest . . .

MR. MacDONALD: — Would the minister permit a question? Would the minister put a motion on the order paper and the Liberal Party will support that motion.

MR. MESSER: — Mr. Speaker, there is no motion needed. We know what the law is, they know what the law is and they have broken it and they are scattering now to try and find some smoke screen to cover their actions.

The point I want to make is that it is their caucus that has undertaken in the debate in this Legislative Assembly and the discussions that are going on in this province that this government has no regard for the law, that shows a gross disregard for the law. The fact of the matter is, Mr. Speaker, we abide by the law. The evidence is there for them to contend with indicating that they have not, they have chosen not to abide by the law.

Now, Mr. Speaker, I said, if I may turn to another matter, that this debate is about resource development. Resource development should reap benefits. They should reap benefits to both the developer and the owner. Our task, Mr. Speaker, is to protect the owners' investment, and that is what we are doing. That is what Saskatchewan people want us to continue to do. I say, Mr. Speaker, that we have been leaders in the policy field and in achievements of resource developments. The people of Saskatchewan have a lot to be proud of because of those achievements. They want us to continue to pursue those kinds of objectives.

Mr. Speaker, my colleague, the Attorney General — and I believe the people of Saskatchewan would agree with me — has done an excellent job of outlining the contents of this bill and of explaining the reasons for its existence. I don't intend to go over the same area in my remarks today. What I would like to do is debunk a few mistakes and generally set the record straight on oil development in Saskatchewan today, in the recent past and in the future. No one could have predicted the events of 1973 and '74 and their impact on the world price of oil, no one! I hear a member from the Liberal caucus laugh. He has only to go back and look, it's a matter of record that oil companies and governments alike were not able to with any kind of accuracy predict what was going to happen in the way of oil prices. Oil had been selling for around \$3 a barrel and most producing companies were making a nice profit at that price. They were making enough to continue to pay for exploring for oil in what looked like the best locations. They didn't need any more money in order to be treated fairly as some members to your left would try and convince us. That, Mr. Speaker, is an important point to keep in mind.

It was at that point that the world price of oil jumped and it jumped dramatically. Canada tried to shield the consumers of oil by restricting the increase. But the increase was significant, significant nonetheless. It went from approximately \$3 a barrel to \$6.50. The question immediately arose, who was to get the increase? There seemed to be two choices, the companies or the owners of the resource, the people of Saskatchewan. This government believed the increase belonged to the people. After all . . .

MR. LANE (Saskatoon-Sutherland): — I wonder if the minister would permit a

question?

MR. MESSER: — Mr. Speaker, I am not going to permit his question . . .

MR. LANE: — Mr. Speaker, I rise on a point of privilege.

MR. SPEAKER: - What is your point of privilege.

MR. LANE: — The point of privilege is that the member states that the Conservatives have not submitted their electoral expenses for the constituency of Pelly. The member should be aware that the chief electoral officer has given her permission on account of weather conditions to have that information in today. I would ask him if he is not aware of that, that he make himself aware of that and not misrepresent our position and thereby my position from where I sit in this House. He knows full well that that information is coming in today on the instructions of his chief electoral officer. I would ask him to withdraw that comment now.

MR. MESSER: — Mr. Speaker, I have no such information and as of yesterday the deadline for the filing, the Conservative paper was not there and they have had six months in order to file it. I think it is a pretty flimsy excuse to now come up with a delay because of weather. I think it is a debating point. The fact of the matter is it was not there at the deadline.

MR. LANE: — Mr. Speaker, on the point of privilege . . .

MR. SPEAKER: — Order, order! I must inform the member that he cannot make appeals on behalf of the Conservative Party. He can't stand here and raise points of privilege on behalf of the Conservative Party. If he has a personal point of privilege, he may raise it. Otherwise he has no point of privilege.

MR. LANE: — Mr. Speaker. surely, if a reflection of breaking of the law is cast on all of the persons sitting in this particular caucus . . .

MR. SPEAKER: —Order, order! Member for Tisdale Kelsey.

MR. MESSER: — Mr. Speaker, again may I say that as of last night the closure of the chief electoral office, and as of this morning a.m., there was no paper filed by the Conservative Party in the province of Saskatchewan. The deadline was yesterday and that gave them six months. I don't know whether they are delivering one today, I don't know what they have conjured up during the dark hours of the night in the back cigar smoke filled rooms of their headquarters, but it was not there at the dead line. As far as I know it is not yet there.

Mr. Speaker, if I may return to my remarks. The question, (I'm talking about oil price increases) Mr. Speaker, the question immediately arose in relation to those price increases who was to get that increase. There seemed to be two choices, the companies or the owners of the resource, the people of Saskatchewan. And this government believed that the increase belonged to the people. After all, it was their depleting non-renewable resource. And the companies were making a fair return at the old price. This wasn't a normal price increase, Mr. Speaker, this was a pure windfall, a genuine unexpected excess. World actions have made our resource more valuable and we had to recover that value while we were able. So new taxes were imposed to keep the windfall in the hands of the people of Saskatchewan.

That might have been it right there, Mr. Speaker. The companies were still making a fair return, the people of Saskatchewan were keeping the rewards for the development of their resources, but then, Mr. Speaker, then the federal government moved in. And it used its all encompassing tax powers to try and take some of the extra money. It took it from the province by reducing its transfers of money. And it took it from the companies by not allowing them to deduct the royalty payments in calculating income for federal tax. In fact, the tax collected by the federal government because of that non-deductibility attitude acquired for them something in excess of \$55 million. They also imposed an export tax between the years of May 1973 to July of 1977, they accrued \$469 million, almost \$470 million. For a period of time, yes, and I do not dispute that, and there was supposed to be some sharing of the money from the excess from the export tax, moneys which no province in Canada will agree was fairly shared with the provinces. And the answer to that by the federal government was that it went into the general revenue and they weren't able to really identify it. And their excuse when all provinces went to them asking for some of the money which was supposed to be shared from that export tax, the federal government's excuse was that they couldn't identify it. They then undertook to try and identify moneys that were already committed for ongoing agreements between the federal government and the provinces with some of those moneys and that simply wasn't the case and there isn't one province that agrees with the understanding that the federal government now operates under. The federal government in fact, collected in excess of \$500 million, Mr. Speaker, — I'll be more than happy to listen to the member for Regina South when he gets up enough nerve to talk. But for the time being, I'd appreciate it if he'd let me finish my remarks — He knows full well, Mr. Speaker, that the federal government has acquired in excess of \$500 million of which a significant percentage was to be shared with the provinces. The fact of the matter is that there isn't one province in Canada that agrees that they have got a fair share of that \$500 million.

Now, Mr. Speaker, the Prime Minister was here a few days ago and he's reported in the Leader Post of December 7, 1977 saying that Ottawa won't try to profit from the ruling. Now, Mr. Speaker, and I don't deny that he said that, he may even think he's sincere in saying it, but I say, Mr. Speaker, that he's a little bit late because when we look at these figures and we look at the ten cents per gallon tax at the pumps and the other taxes that were assessed in relation to oil in the consumption of oil, it's a little bit late because they had already extracted hundreds of millions of dollars from the oil industry in the province of Saskatchewan directly to the federal coffers, money that should have been accruing to the province of Saskatchewan by one means or another either by direct taxation or by returns or credits that the federal government left us with the impression with would be coming to us when they collected those moneys.

Now, Mr. Speaker, the other, I think, significant concern when we look at the attitude and the statement of the Prime Minister and I agree with him I would like to hope that he would be able to deliver the goods, so to speak. But when I look at other press statements, statements of the Leader Post, November 26, statement from Mr. Lang with regard to the CIGOL Supreme Court decision, he certainly doesn't leave the impression that the federal government shouldn't undertake to prosper by this. The headline is, or the first sentence in the paragraph is, "The Federal Treasury probably does stand to gain from the Supreme Court of Canada's ruling on Saskatchewan oil taxes". And he goes on to say that he has little sympathy with the province of Saskatchewan. That's certainly not consistent with the attitude of the Prime Minister and it's a disgrace to see a senator from the province of Saskatchewan stating and I quote "politically I have to say it would be rather nice to see the Government of Saskatchewan sweat it out". It certainly doesn't appear, Mr. Speaker, that senior members of parliament, and cabinet ministers from

the Province of Saskatchewan and members of the senate are in agreement with what the Prime Minister says when he quotes in the Leader Post that Ottawa won't try to gain in the way of profit from the Supreme Court ruling. Mr. Speaker, that is truly unfortunate.

Now, Mr. Speaker, if I may return to the companies which are involved in this whole dilemma. There were negotiations when the federal government announced that it would not allow the deductibility of royalties. There were negotiations instigated by the companies with the federal government. And those negotiations failed and certainly suing Ottawa would be hopeless because of its tax powers, so one company in sheer frustration and, I suspect, with the support from some of the rest of the industry sued the government of Saskatchewan. As we all know, Mr. Speaker, they lost at the first instance and no one was too surprised. They appealed and the five judges in the Court Appeal were unanimous in rejecting the appeal. But the company appealed again to the Supreme Court in Ottawa. And it was no longer just the company against Saskatchewan. The federal government had joined the company in fighting against the people of Saskatchewan. We waited a year for a decision and finally it came not unanimous, but in favor of the company and Ottawa. And many people were surprised and a few were even appalled, yet it is of little purpose to do nothing but criticize the judgment now. I suspect law review articles for years to come will do that. Yet the judgment is a fact of life with which we all have to contend and that's what the bill before you now is designed to do. It's not designed to give money back, as members of the opposition would suggest, it is not designed to impose a lower tax so the companies can keep some or all of the windfall gain, as other members in the opposition would suggest. It is designed to keep for the people of Saskatchewan the money that is rightfully theirs, the windfall, the excess profit on the development of their resource, their resource oil. And it is designed to do it in the most direct and constitutionally valid way we can find. Why didn't we do it this way in the first place? Because we didn't think we had to, Mr. Speaker. Just as the judges at different courts at different levels all the way to and including the Supreme Court thought our approach was valid. So did we. And by using the taxes as we did we were able to manage the development of our oil resources in the most effective and efficient manner possible. We continue to believe that a royalty is a better tool for resource taxation and management than as an income tax. Thus, we're continuing to collect the royalty imposed on the production of oil from Crown land since November 1, 1976. Payments of this royalty can be deducted from taxes payable under the new Oil Well Income Tax so that producers are not doubly taxed as some members would suggest. However, production from freehold land will be subject to tax under the Oil Well Income Tax Act when proclaimed instead of being subject to the tax currently being paid.

Let me correct one more misconception perpetrated, I might add, by a member of the opposition, the member for Regina South. The farmers and other small freeholders of oil producing land in Saskatchewan were getting a fair share before Bill 42, were completely protected in their rights under Bill 42 and continue to be under the new legislation. Any taxes producing companies might have had to pay to the government of Saskatchewan in no way impinged on the right of the freeholder to get his share, usually 12 1/2 per cent of value of production, full value, I might add, Mr. Speaker, right off the top. That was true, is true, and will continue to be true and I challenge anyone to show otherwise.

It is not the intention of this government or this bill to impose new higher levels of tax on oil companies. We believe, as do many of the producing companies, that the current tax levels afford a fair return on investment for producers, at the same time earning an

excellent return for the people of Saskatchewan on the development of their resources. The facts speak for themselves, over 480 wells drilled so far this year as against 230 the year before, over \$36 million spent on drilling this year compared to \$18 million a year ago, record prices bid for prospective Saskatchewan oil land at the last two land sales including over \$7 million worth of bids at the last sale alone. Don't let anyone tell you, Mr. Speaker, that the oil companies need more incentives to come to work in Saskatchewan. They're not here for the give-aways and paybacks that the Liberals and Conservatives would have us negotiate. They're not here for the half price tax scheme that the member for Nipawin would like us to implement or impose, they're here because they respect the responsible approach of this government and the management of its oil resources. They're here and they know that that approach will continue, Mr. Speaker.

Now, Mr. Speaker, I began my remarks by saying that the key to this bill in the most important aspect of this debate was resource development and I say to you, Mr. Speaker, that the members opposite have displayed a disregard for the resource development, a development that would take place in Saskatchewan only if it was in the best interests of the people of Saskatchewan, a disregard, a disappointing, Mr. Speaker, disregard, and I say, Mr. Speaker, that when we arrive at the opportunity to finally vote on this bill I predict that the members opposite will vote against it and by their actions, Mr. Speaker, will be a display, a very distinct display, a very obvious display to the people of Saskatchewan, that they in fact, are not acting in their best interest but are acting in the best interest of the companies. And I don't, Mr. Speaker, want people to interpret from those remarks, that this government believes companies should not benefit from the development of resources in this province. We believe they should and we have policies and taxes and royalties in place that allow them to benefit, but a benefit in a fair way, benefit in a way which does not in any way allow a rip-off of the moneys that should be going to the people of Saskatchewan.

Mr. Speaker, having said these few words with regard to Bill 47, I suggest to all members, I plead to the individual member of the caucus opposite, the Conservative and the Liberal caucus that they are duly representing, the constituencies that they are here to represent, that they give second consideration to supporting Bill 47 which is a bill for the people of Saskatchewan.

SOME HON. MEMBERS: Hear, hear!

MR. G.H. PENNER (Saskatoon Eastview): — Mr. Speaker, in rising to participate in the debate . . . (tape inaudible) . . . my next colleague fifteen minutes ago the minister was attempting to make some sense the people of Saskatchewan gave prior to Bill 47 are hollering question. They'd love to have the question put. They'd love to get off the hook. They don't care, Mr. Speaker, whether the Premier of this province speaks to a bill that is probably as significant as any bill that has been before the House or that other members of the Cabinet get on their feet and represent the feeling of the government toward an extremely significant bill in principle or that members of our caucus have the opportunity to stand up and represent the people that have elected us to be here. As a matter of fact, they don't care, Mr. Speaker, whether they get up and say anything at all about the people that they represent. We know, Mr. Speaker, that soon after the CIGOL decision came down the Leader of the Conservative Party got on his feet and suggested that we have priority debate. And he hasn't been heard from since, and neither have other members of his caucus been heard from since, Mr. Speaker, except when some of

the more experienced members get on their feet with regard to points of order and points of privilege and don't understand what either means, who are not prepared to stand up and debate in substance a significant bill which is before this House and before the people of Saskatchewan but want to stand up on points of order and points of privilege that are neither and it shows simply their lack of understanding and I agree with the member for Saskatoon-Sutherland when he said he's a new member and he doesn't understand and it's obvious, every time he speaks, that he's a new member and that he doesn't understand what the business of the House is all about. Now, Mr. Speaker, one of the things that I was amazed to hear from the minister who just took his seat, when he began his remarks was something to the effect that what the government was doing kindled the kind of security for the people of Saskatchewan. And I couldn't help but chuckle, Mr. Speaker, because I have to say what's security, Bill 42, what's security. For the people of Saskatchewan, what's security? No security. A bill struck down because it was unconstitutional. The minister talks about benefits for whom. He didn't say for whom, he said for who, but if he were a school teacher he'd know it should be for whom. And you know, Mr. Speaker, it's interesting because it's again another attempt by the government to muddy the water. It never has been the question of who the benefits are for, the key question is a government that has had the inability to protect the people of Saskatchewan the resource benefits that are rightly theirs. That is what the question is. That is what the debate with regard to bill 47 is all about. One of the things that the minister did say that was correct, Mr. Speaker, was the statement that Liberals are ambitious and I want to say to you, Mr. Speaker, and through you to the members of the government, that's why we're standing up and speaking in this debate, because we're ambitious enough to be certain that Bill 47 is not simply going to be a repeat of the problem that Bill 42 presented to the people of Saskatchewan. Now, Mr. Speaker, if we're going to fully comprehend the issue, tracing the government as a result of the Supreme Court decision, we must cut through a number of matters that have been raised which serve only to muddy the waters and divert attention from what I've just indicated to be the real issue. You might ask, Mr. Speaker, what has been said to muddy the water. And my response would be, what hasn't been said by members opposite that doesn't muddy the water.

Let's go through some of the things that members of the government have said in the last few days. First, that the problem we face is caused by the attitude and philosophy of the Supreme Court. Attempts by government members to use this excuse is blatantly wrong and is a calculated attempt to discredit the highest court in our country. It's an argument void of logic.

Second, the reason that the decision came down as it did was because the federal government came down on the side of the oil industry. Government members who feel that they can fool Saskatchewan residents with this argument would do well to remember an editorial in the November 26 issue of the Star-Phoenix, an editorial which the Attorney General so skillfully attempted to misrepresent when he spoke in defence of the bill. The editorial says in part "although Ottawa opposed Saskatchewan in the court action, that was because of the constitutional issue, not because it sympathized with the oil companies, and the argument of the government can be likened to that of a youngster who claims the reason he gets into trouble is because everyone gangs up on him, rather than recognizing that the real reason he is in trouble is because of his own actions and his own attitude. The fact that government members resort to this type of argument demonstrates clearly their unwillingness to accept responsibility for their own actions."

Third, the government parades the myth that they are for the people of Saskatchewan,

while we are not. This simplistic untruth is beneath the sophisticated thinking of the voters of Saskatchewan. The government's own actions in this case are the best proof to Saskatchewan people that the government has abdicated its responsibilities to the people. With regard to the petroleum industry in Saskatchewan, what have they done?

Well, through attitude and policy they have decimated the industry. Production has dropped from 80 million barrels in 1973 to 59 million barrels in 1975. They have failed to protect the rights of Saskatchewan residents to a fair return on the profits which accrued to oil companies in Saskatchewan as a result of the international market change in 1973.

Mr. Speaker, the attempts of the Attorney General when he introduced Bill 47 in second reading to discredit all and sundry is a typical example of government arrogance and government irresponsibility. The Attorney General in his two and one-half hour harangue blamed CIGOL, the federal government, Otto Lang, the oil industry, Senator Buckwold, the Supreme Court of Canada and the list could have gone on and on.

Mr. Speaker, neither the Attorney General nor any member of his government is prepared to stand up and recognize that the blame for our present predicament rests in one place, and one place only - squarely on the shoulders of the government of Saskatchewan.

SOME HON. MEMBERS: Hear, hear!

MR. PENNER: — This government has betrayed its responsibility to the people of the province through Bill 42 rather than guarantee a fair and substantial share of the windfall profits which should have accrued to the people of this province as a result of those off-shore oil price increases in 1973, it made certain that we received nothing.

Mr. Speaker, an error can be excused but when a mistake is made by a particular group, a mistake which is conceived by that group, given birth by that group, sustained and nurtured by that group, brought to fruition by it, when that group all the while believes that their mistake is a beautiful and sound creation and then realizes that the creation is in fact a non-entity, that the creation is null and void, that the creation is a result of an illegal process, and despite all of this can't accept responsibility for their creation, then, Mr. Speaker, we have a group that deserves only contempt.

SOME HON. MEMBERS: Hear, hear!

MR. PENNER: — . . . a group that runs to hide behind every possible wall, every possible shadow.

I want to say, Mr. Speaker, that it would do well for the government to do what our party did in filing the return that the minister spoke of a few minutes ago. It's true we made an error, but we had the intestinal fortitude to admit that we made the error and to be honest and through everything that I have heard you people say about Bill 42, not one of you has had the gumption to get on your feet and say, 'it's our fault.' Every opportunity you've taken it has been to blame somebody else. That, Mr. Speaker, is exactly what this NDP government has done and they do not possess the intestinal fortitude individually or collectively to stand up as a man would do and say we made a mistake.

Mr. Speaker, this mistake isn't the only error made by this government. It is no wonder

they are the only government with a socialist philosophy left in this country. Their record is dismal and speaks for itself. Economic mismanagement will no doubt be the phrase used by historians to describe this period in Saskatchewan's history. Let's look at some examples, Mr. Speaker. No province in Canada has been hit harder than Saskatchewan in the inflationary spiral. The economic growth rate in Saskatchewan is much below the average for the nation. The provincial income tax has risen 245 per cent in dollars collected to the Treasury in five years. Today Saskatchewan residents pay the highest provincial income tax rate of any province in Canada. Despite huge increases in revenue from income taxes and from federal provincial revenues this government cannot or will not live within its means.

The Potash Corporation of Saskatchewan in its first annual report attempts to show a profit in excess of \$800,000 when it is clear that it has a large and heavy deficit position. Other Crown corporations in the past few years have strangled Saskatchewan taxpayers with exorbitant rate increases. Nationalization of the potash industry and the result in lack of credibility in the investment climate of this province, Bill 42, is an act of irresponsibility perpetrated on the people of Saskatchewan by the Blakeney government. Mr. Speaker, if we were to supply a short title to this one like we did to the bill the other night, it might very well be 'we're sorry folks but it's only your money'.

Mr. Speaker, the fear with Bill 47 which every thinking person in Saskatchewan recognizes is that the short title of this bill could become, 'oops, we're sorry for this one, too'. The fact is, Mr. Speaker, that there is a better than 50 - 50 chance that this bill will be as unconstitutional as was Bill 42. If this is not the case, Mr. Speaker, I challenge the Premier to indicate to the House exactly what opinion he has been given on this important aspect of the question. It is his responsibility to indicate to the people of Saskatchewan that his \$500 million mistake is not going to become a billion dollar bungle. He knows, or ought to know, that Bill 47 in its present form is open to attack because it attempts to do directly and retroactively what the Supreme Court said the government could not do indirectly. The portion from today or from the time the bill receives assent until back to 1973, and I am sure the Attorney General would agree, is open to serious challenge.

Mr. Speaker, the government has indicated its intention to negotiate with the oil companies for a substantial amount of the taxes owing. It is our view that the key to solving our problem is the negotiation process. The Attorney General and his colleagues know how to bargain. If they know how to bargain hard, if they know how to bargain fairly, then they can solve the problem that they and they alone have created.

Now, Mr. Speaker, before I take my chair I would like to recapitulate. First of all, this government through its own mismanagement, incompetence, irresponsibility has cheated the people of Saskatchewan out of what is rightfully theirs. Secondly, there is no question but what Bill 42 was unconstitutional. Thirdly, there is a strong possibility that Bill 47 is unconstitutional. There is a strong possibility that you will turn a \$500 million mistake into a \$1 billion mistake.

Mr. Speaker, we in the Liberal Party support the right of every province in Canada to tax resource industries in any way they like but we think that provincial governments, like individuals, have a responsibility to do so within the law. We believe also that any government who taxes in any manner whatsoever outside the law is stupid. Mr. Speaker, in his closing remarks the Attorney General gave three reasons why the opposition members might not vote for the bill. The first reason that he gave can be found on page 608 of Hansard. You will quite rightly see that the first reason that he

December 9, 1977

(This page is blank.)

in this debate It has taken us a week to flush them out and when we discovered that they have got somebody over here who is prepared to stand up, who has enough guts to stand up in this debate for a change, not to do the kind of thing that they did during the potash debate when they didn't have enough gumption or enough knowledge or enough understanding of the issue to get on their feet, we are finally going to get them on their feet today and were going to find out just what that Tory party is really made out of.

You know, Mr. Speaker, in a few minutes I am going to sit down and I am not going to adjourn the debate, and I am going to watch, as every member of this House is going to watch, to see who over here has enough guts to get on his feet, to see whether or not the goading of the member for Kelsey-Tisdale (Mr. Messer) has been sufficient to get those people who represent oil seats over here up on their feet and off their seats to speak about the issue.

You know, Mr. Speaker, it is interesting when you stop for a few minutes and you think about what this party has done in two and one-half years. You talk about political gainsmanship, you talk about points of order and points of privilege, you talk about insecurity and paranoia as I said in my opening remarks, you talk about gum chewing, you talk about decorum, you talk about filthy hospitals that they can't prove, you talk about bringing all kinds of things into the issue, Mr. Speaker, that indicate the kind of petty, small, insecure group of people that we've really got.

You know, Mr. Speaker, we were of the view that that party had folded up. The kinds of things that we're hearing in the country is that it's the rise and fall of the PCs; they've risen and they've peaked and they are beginning to fall and there could be no better indication of that today than the kind of performance this party again has shown in this Assembly.

SOME HON. MEMBERS: Hear, hear!

MR. PENNER: — Now, Mr. Speaker, as I have said before, it's taken us ten days to flush out the so-called Tory, taken us that long to get these people to stand up on their feet and say something that is significant in debate in principle of a bill that is one of the most significant bills this House has seen. So, Mr. Speaker, inviting the Tory and especially the member for Estevan who represents a Tory seat, an oil seat, who has a speech prepared and sitting on his desk, I am going to sit down and give him an opportunity, Mr. Speaker, to rise in this debate.

SOME HON. MEMBERS: Hear, hear!

MR. J.G. LANE (Qu'Appelle): — I think, Mr. Speaker, that a lesson has been learned this afternoon that we are party to no deals or arrangements in this House no matter how slipshod and how childish that the member for Saskatoon Eastview wants to be. Every day we have seen in this debate an arrangement serving the people of Saskatchewan no good whatsoever, wherein two members go and one member there speaks up and adjourns debate. They have every right, Mr. Speaker, to arrange or make arrangements, whatever situation they want to develop, whatever arrangements the government opposite is to try and get the Liberals off the hook because they can't make up their minds which way to go on the bill. One member gets up and says - 'it's a lousy bill, it's unconstitutional, it will not get beyond the Supreme Court, we must have a guarantee, a guarantee of constitutionality.' 'But we may vote for the bill.' The next speaker gets up and says, 'we want guarantees and we want assurances of the Attorney General that

this bill is going to be constitutional because we don't think it is constitutional.' 'But we may support the bill.' The next speaker gets up and says, 'we want guarantees, we can be forced to vote on this bill unless there are guarantees of the constitutionality.' So then the hon. member gets up and says, 'but we may vote for the bill.'

They have taken the classic position as defined by Dave Steuart years ago, the position of firm flexibility and that is the Liberal position on Bill 47. They're not going to vote for it, hoping that perhaps they have another filibuster, that we take this bill all the way through to next May and maybe they won't have to take a stand. Maybe by that time a year and one-half from now when we have a vote maybe we will have a constitutional guarantee or a validity guarantee. Perhaps we will if we wait long enough. Why, why are we hanging on on this crucial issue for the people of Saskatchewan? Why are we taking the time of the people of this province, when the Attorney General himself has said in the debate that this is one of the most crucial issues ever to face the people of this province? The Attorney General has said in debate, that without this bill and I think that this is crucial, Mr. Speaker, I think that the Attorney General has hit the issue right on and we agree with the Attorney General. The Attorney General has said that this bill is designed to prevent paying back to the oil companies a potential loss of \$500 million. He asserts speedy passage. The Attorney General asked all parties in this House to support the bill and I think all members of the press know it. I don't think the Attorney General asked for the party on the right to stand up and say, oh we've got to have guarantees. You must get down Mr. Attorney General, on your knees and say I guarantee in writing that this is constitutionally valid. That's what they're asking for. I have never heard of a more stupid, inane approach to a crucial issue, you can ride the fence, you can ride the fence, but make no mistake members to my right, that the fence you're standing on has got some pretty sharp pickets and you better take one side or the other than fall down in the middle, because you will hurt yourself and you will hurt yourself seriously. The fact is the Attorney General pleaded and I think all members on the press side saw it and all members on the opposite side. He pleaded for this support because the issue was, and the Attorney General made it clear, the issue was whether or not we are for or against you and I am quoting at page 608, but the key issue in the eyes of the people of Saskatchewan will be, are you for or are you against giving back this \$500 million. Make no mistake about that member for Wilkie, make no mistake. That's what the Attorney General said, and we make no mistake. We have told you that we support this bill and we support it in principle. We have taken an unequivocal stand, an unequivocal stand that may upset you politically, that may irritate you politically understand it may make you angry politically, understand it may take your issue politically, but we are the only opposition party that has made a stand, the only one and the fact is we join with the government in making sure that the people do not have to pay back \$500 million. We said it. We are the only opposition party that has said it. We agree with the Attorney General, the people can't afford to pay back \$500 million. We know that. That is why we have endeavored in this House to take the wishes of the cabinet opposite to get speedy passage of this bill. Let's get in the committee. We have what we believe sound and constructive amendments. You may or may not agree with the amendments and that's fair for you to take that position in committee. We have given you what our amendments proposed. The fact is you know that eventually this bill is going to be passed, so why are we taking the long road. If the Attorney General is honest when he says that the reason for this bill is to make sure that we don't run the risk of having to pay back \$500 million and he want speedy passage then why are we going through all this great exercise of day after day, the same thing all over, one party daily telling the public they can't make up their mind. They've got a split in caucus, they've got a split in caucus and they don't know which way to go and that's the real reason for the holdup. We agree with the Attorney General, we agree with the government that in fact,

that in fact the principle is as the Attorney General has said, whether or not we are going to pay back the \$500 million. I don't know how clear and how many times I have to repeat this thing. We agreed that the province shouldn't have to pay and the public should not have to pay back \$500 million. Right. So we're supporting the bill. We've said it. Now, for some reason an unequivocal stand in support from the Conservatives is subject to question, where the Liberals of all people can't even make up their own minds. The fact is a second reason for the stall from the Liberals is the fact that they didn't get a position first so now they are embarrassed. Now they are hoping that the two or three Liberals left out in the country will show a unifying stand and give a position to take, and they have not yet heard and that's why, and that's why. Never, never, you know in the history of this Legislature have we seen on a \$500 million potential liability against the people of Saskatchewan, a political party which can't make a stand. It doesn't know which side to take. It's inconceivable, it's inconceivable that the people will accept that and I don't think they will. The fact is the way to guarantee it, the way to at least put the government in a negotiation position is let's pass this bill. Let's get on. Let's do what the Attorney General says in this case and let's not put at risk \$500 million. That's what we're supposed to be doing. We're supposed to be looking after the moneys of the people of Saskatchewan. That's what we're attempting to do. We're proud of doing that. We do not intend to get into a long harangue. It's a nice simple position. Even the members opposite, some of the backbenchers can understand it. As I say it may not be politically palatable for the government opposite but that's our stand and we say it with pride and it's unequivocal and that's where we stand.

SOME HON. MEMBERS: Hear, hear!

MR. S.J. CAMERON (Regina South): — Mr. Speaker, that's an amazing flip flop. I have to say. I think that member stood in his seat in 1973 or 1975 and voted against Bill 42, spoke violently against Bill 42, said how rapacious that government was. Now he wants a supportive bill to restore the position of Bill 42, now he wonders, well what position I ask you is that. How did he come to his decision so readily? I'll tell you how he came to it, because he didn't get beyond a narrow, small political question, that's how he got to his position so readily. He asks himself a simple question, "What is the NDP going to make of this?" The position the NDP is going to make of this is this. It's going to say, you either stand with the oil companies or you stand with the people. He knows how effective the NDP is at making those simple kind of emotional arguments. He says, therefore, that we better be with the NDP on that one because they do such an effective job of that, so we shouldn't go beyond the narrow simple politics of the issue. Well I tell that member, I tell that member that has always been his approach. It now still is his approach and he is going to have to go back to his constituents in Qu'Appelle and tell them why four years ago he voted against the policy of which today he wants to vote for.

SOME HON. MEMBERS: Hear, hear!

MR. CAMERON: — Tell them how he arrived so simply at his decision. He asks why? Mr. Speaker, why it is taking us some time to analyse the bill. Well, the answer is threefold, one is that we are concerned gravely with the bill itself. The member himself has said that it's a bill of fundamental importance to the province. He said, that the Attorney General indicated to us that while I always take the Attorney General's word, he said apparently, that it's of such fundamental importance that we ought to listen to the Attorney General. Now if a bill in fact is of such fundamental importance, has such

grave and complex ramifications, surely to God it is incumbent upon members particularly the opposition to spend some time analysing those complex ramifications instead of coming to that very simple political first solution and that's where that member stood and that's where his party stands, because it hasn't got the courage, doesn't have the political courage nor the confidence in itself as a political party to stand in respect to this bill for what ought to be on principle. I ask the hon. member to take a look at the act and tell me whether it's a fair taxation system. The hon. member says yes, it's fair. Does the bill have a fair taxation system? Do you know anything about business? You have a gross income set up with the bill, that you have a mechanism to come at a net income.

How do you arrive under this bill at that net income? How does the member for Nipawin and his sometime legal advisor, the member for Qu'Appelle, support this concept, the tax net income on an oil well? How do you arrive at your calculation of net income. Usually of course, members will know that you deduct your usual expenses in accordance with usual accounting experience and rules. This bill disallows the deduction of operating expenses of capital costs. There's no capital cost allowance provided for in this bill, unless you get some special exemption under regulation, but it begins by excluding expensing the capital cost allowance so that you can't expense the cost of your capital. It excludes from expensing taxes paid to other jurisdictions, so that if a producer has gained a certain amount of income and he has already paid federal income tax, and provincial income tax in respect of that income he is not permitted to expense those items of tax in calculating his net income for taxation purposes here, clearly an example of double taxation.

Now I ask the member for Qu'Appelle if he can begin even to understand the most basic and embryonic concepts of accounting, how can he stand so readily and say, why, the Attorney General asked us to do it, therefore we are going to do it. A whole series of other items come under this bill that one is not permitted to expense in arriving at your calculation or computation of the net income, whole series of them and there is a time for debate when we get to the committee stage of the bill and indeed as the debate goes on to debate those at length. But what I put to those people over there seriously if they look at the bill in its detail is that there are all kinds of difficult concepts here and tough ramifications. Well, the member says it's not difficult, we want to give their money back and of course, that again reflects the sort of simplistic approach to this bill, the same kind of simplistic approach that those members took in the absence of that particular member of the potash legislation which we referred to earlier. They didn't want to take the position, they never want to take a position that's at all difficult, because they know how effective the NDP is at reducing it to simple motions and they want to be sure and be on that same side principled and respected.

Mr. Speaker, the bill has in addition to that and I appreciate the member from Qu'Appelle will know this, but the member for Saskatoon might, some difficult, constitutional ramifications. The member for Nipawin may not know that either, the Attorney General certainly does know it, and the Premier has described the situation as grave Members will understand, some of them, not the member for Qu'Appelle, that there are constitutional issues here before this House now, which in the perspective of our history we haven't seen before. We have had in fact in the last two or three years of the 18th Legislature, bills come before us on issues of a constitutional variety, the likes of which people don't generally see in their generation. We haven't had so many constitutional issues before us, since Aberhart in the 1930's in Alberta, with all the legislation there that was testing the limits of the power of the provincial government. We have had in these past three years the same exercise testing by a government again

and again its limits of power. Constitutional brinkmanship is what we have seen in the two and a half or three or four years by the government. That's the period we're in. I don't know how the member for Qu'Appelle can set aside all that perspective of the important era that we're in in history here and come to that simple little conclusion that he has come to without examining these things, particularly since he purports to be a lawyer and ought to be interested in this aspect.

One look, Mr. Speaker, at the constitutional issues before this province today and those have been before us in the past two or three years, you see the enormity of government's effort to push its constitutional authority to its ultimate limit. The potash reserves tax is under challenge before the courts on its constitutionality. That situation will likely soon be determined by the courts, that too is a fundamental question of the limits of the power of this government, as it applies to the reserve tax in potash. The pro-rationing scheme which was altered so radically by these people when they came to power and they wanted to use that scheme as a taxing measure as well, was challenged, has gone through the courts, is today before the Supreme Court. That too, will determine whether or not this government had the constitutional authority to pro-rate in the way they sought to do and to tax under that act in the way in which they sought to do, the second action of fundamental importance to the limits of power of the provincial government, that one is before the Supreme Court. Bill 42 has just gone through four years of being rocked around in the courts and that essentially is the government's whole oil policy, reflected by Bill 42. Now we have the judgment from the Supreme Court, just recently indicating and a major constitutional decision indicating that the policy as reflected in the bill and the bill is unconstitutional. Again, a testing of its power, that one and in respect to that particular act it went beyond its limits.

There are constitutional questions of a similar variety in respect of other issues. The Minister of Municipal Affairs has been testing his constitutional authority vis-a-vis the trucking industry and he's finding on occasion that he doesn't have the power that he would like to have there because that power under the constitution rests with another level of government. So he's having trouble in trying to deal with CN trucks and CP trucks and that issue, too, was before the courts in terms of the constitutionality of his actions. And he knows that that one is a tenuous position. He is pushing that position perhaps beyond where one reasonably ought to go if one wants to maintain the jurisdiction, another issue where government is pushing its power to some constitutional limit.

There are others around as well, Imperial Oil has an action before the courts challenging oil taxation as well. That matter, likely, is going to come to trial and in due course will result in some constitutional decision as well. The Minister of Communications will know that his communication's policy as applied to cable television was also challenged by the national government in terms of its constitutional validity. The Provincial Government says we have the authority to legislate in respect to cable television; the national government and others elsewhere tell them they don't. Irrespective of that, following the same pattern, testing the limits of its power, this constitutional brinkmanship that the government is engaged in is it brought in a policy and legislation to control cable television which was and now is shown to have been unconstitutional. The Supreme Court of Canada . . . the member says stand up for the people of Saskatchewan. What do you suppose I am doing in having spent the time in analyzing where this government is going, and what sort of government we have? I find it interesting that when I say to the member for Prince Albert, looking across the aisle, and I'm telling him what an incompetent government this is, he tells me would you please speak for the people of Saskatchewan. Well, I thought I was doing that and I

thought you would have agreed with me that, in fact, the government has been on a hazardous and treacherous course these last three or four years. Now I would have thought you would have agreed with that. You too, apparently, have been persuaded easily by the Attorney General as was the member for Qu'Appelle because, of course, the Attorney General has been saying all the while we're engaged in a competent exercise. But you see again a pattern here developing in respect of all these issues, patterns of moving with your power, challenging your power, sometimes failing, sometimes drawing it very close to the line and backing off, and in never once to this point in time having succeeded. Members have to ask themselves in connection with this bill where we are going as a province in doing this. What are the risks that we are visiting upon our people in testing our power in the way in which you people are doing this? We get a good example of the kind of risk you get in respect to this particular bill. You thought in '73 you said you had the power to do it. You were told you didn't. You persisted nonetheless. You didn't refer it to the courts as you had a chance to do to get it tested early. You tested your power. Four years later you were told you didn't have the power. Questions members ought to consider is why you pushed in that way to have that kind of test of your power. Another question is what risk are you prepared to visit upon the people to test your powers in that way. What is the risk? This one, clearly, you have risked \$500 million without question. The Premier has indicated rightly that the situation is grave and the Attorney General, I think, agreed with him that it is grave, and that this bill which is now before us is not without some very real problems, and the Attorney General knows that. He knows as we discussed it in question period earlier of the day about the doctrine of colorability as it applies to constitutional interpretation. In its simplest terms the doctrine simply indicates to governments that they cannot do indirectly what constitutionally they couldn't do directly. Let me explain that a little bit. That doctrine arose and was applied in a case that you yourselves precipitated in testing your powers, the AMAX potash case. The Attorney General would be familiar with it. The background of that is the AMAX Potash Corporation challenged the validity of one of the government's potash taxation policies. It sued. AMAX said the tax is not constitutionally sound. So it went to the government and it said, look, we think your act is not sound, it's unconstitutional, we will pay you the tax, we will give you the money in the meantime, on the undertaking by you to repay it to us in the event it's proved in the end to have been collected unlawfully, a pretty reasonable request. The government said No. They were not prepared to do that. Then AMAX applied to the court to pay the money, the tax money, into court, wanting an order to permit it to recover the money out of court in the event the taxing statute was found unconstitutional. The government resisted that decision, saying, "incidentally" along the way, that even if our tax is found in the end to have been unlawfully collected we are not prepared to return it, which drew some comment from the Supreme Court. I'll remind the Attorney General of the morality of that kind of a decision. So what did AMAX do? AMAX appealed then to the Supreme Court of Canada eventually and it got a ruling from the Supreme Court and the provincial government sought to avoid having to repay the potash taxes that it collected, in the event the act went down as unconstitutional by relying on another provincial statute the Proceedings Against the Crown Act under which it said, under which the provincial government said the AMAX Potash Corporation was not entitled to have the illegal tax money back. Now what the Supreme Court of Canada said to the government, and the Attorney General is aware of that case and the obstacle it places before him, is that if you can't establish the constitutional validity of your taxing statute, you can't keep the money under another statute. In other words, if you can't pick it up lawfully on the right hand you certainly can't retain it with the left hand, the doctrine of tolerability. Now I ask the Attorney General and I ask those members there if they were prepared to listen to anything, beyond that simple little emotional political slogan and that stupid little hazy political decision they made, to get into some detail of things that

they can see the problems that that case has given us. That insofar as Bill 47 applies retroactively, and I don't comment on its constitutional validity as to its future, insofar as it is enacted to apply to the period behind us. I ask you how you can argue that that isn't merely an attempt to retain what you lost under Bill 42. Now members are, in fact, saying that that's what it s designed to do. The member for Qu'Appelle says that's why he's going to support it. But you know that you can't by Bill 47 retrieve what you've lost under Bill 42 constitutionally. If you said that's what you were trying to do, that's a guarantee you'll lose the case before the Supreme Court of Canada. That's why we were amazed, Mr. Speaker, to see the Premier indicate the other day on television that while he is going to pay CIGOL, his judgement of three and one half or four million dollars, he will pay that out of his right pocket, but under Bill 47 he will sort of tax it back into the left pocket, hand them a check with the right hand, tax it back under 47 with the left hand and I say that is almost exactly what the Premier said. Now what I found unfathomable about that is that he knows the difficulty of the doctrine of coverability. He knows the problem with trying to retrieve a situation when you have lost it constitutionally and he says on television for the whole world to see that what we're trying to do with 47 is to recover what we lost in the Supreme Court decision on 42 and then the Attorney General is going to have George Taylor argue three or four years down the pike because I can't get him to refer it. George Taylor will rise in the Supreme Court of Canada and say, "No my Lord this isn't an effort, this isn't an effort to retrieve Bill 42 at all. That's not what we're doing. We're not trying to retain the \$500 million we collected. No, my Lord that's not at all what we're doing." We'll ask it again. We'll ask him what he is doing by the way. You may ask him along the way too why he uses 10 words when one would suffice as he did the last time when he argued your case on Bill 42. Mr. Speaker, I see it's about 30 seconds before the hour so I'll call it 1:00 o'clock and I look forward on Monday to speaking at some greater length again and hoping to persuade among other things the Conservatives to show a little courage to put some principles before easy politics to examine the complexity of the situation which are here clearly and to take the decision as a responsible opposition.

SOME HON. MEMBERS: Hear, hear!

The Assembly adjourned at 1:00 o'clock p.m.