

LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
Fourth Session — Eighteenth Legislature

January 5, 1978

The Assembly met at 2:00 p.m.

On the Orders of the Day

QUESTIONS

Bayda Report Regarding Mine Equipment

Mr. G.N. Wipf (Prince Albert-Duck Lake): — Mr. Speaker, a question to the Premier. In their year-end press report Amok stated that they would have to leave several millions of dollars worth of equipment in warehouses for the rest of this winter because the Bayda Report was not completed in time to arrange for freighting to the mine site. Today's paper states that the Bayda release is not expected for several weeks.

Has the Premier considered asking for an interim report as requested by the Northern Municipal Council, the Northlands Development Corporation, and Sask Mining & Development Corporation, as reported in the paper today, and other interested parties, or is it the intention of your government to leave the potential investors and local business people and workers in the province in a state of uncertainty about the investment climate in Saskatchewan? And, Mr. Minister, can you not see that this could have an adverse effect on the future industry . . .

Mr. Speaker: — Order!

Hon. A.E. Blakeney (Premier): — One doesn't know quite where to start with that. I'll answer by saying that the factual premise on which the question is based is false. Several members of our government met with the group that the hon. member alleges was here this morning and they simply did not ask us to ask for an interim report. In fact the Northern Municipal Council was specific in asking us not to pressure the Bayda Commission, and accordingly the statement of fact which preceded the question is false and the question proceeds on that false premise.

News Report of Meeting with Chief Electoral Officer

Mr. E.C. Malone (Leader of the Liberal Opposition): — Mr. Speaker, a question to the Premier in his capacity as the minister in charge of the office of the Chief Electoral Officer. There was a news report yesterday on CBC and later carried in the Leader Post to the effect that Mrs. Bryant, the Chief Electoral Officer had invited the representatives or business agents of the three political parties to attend at her office for a meeting, and that letters were going out in this regard.

My question to the Premier is, firstly, what is the reason for this particular meeting and indeed is it to be a meeting where other political parties other than the Liberal Party, the party that sits to my left and the party which you lead, are going to be given a final opportunity to tell the returning officer or the Chief Electoral Officer, the actual amounts they did spend on the Pelly by-election?

Mr. Blakeney: — Mr. Speaker, I do not have any specific information on this since I have not talked to the Chief Electoral Officer today, or indeed for several weeks. She is

making judgements as she thinks fit.

My understanding of the situation is that she has found what she considers to be discrepancies or irregularities or departures from the Act in the returns filed by all three parties and possibly some of the candidates. I think at least one of the candidates but I'm not sure of that, and my understanding is that she is asking the three parties concerned to meet with her and give her any additional information that they may feel would be helpful in giving her a full picture of the facts surrounding each of those parties' expenditures in the Pelly by-election.

Mr. Malone: — A supplementary question, Mr. Speaker. Would the Premier not agree though that the provisions of the Act already indicate to all political parties that they must make a full disclosure when they file these returns, and that if a full disclosure hasn't been made at the time those returns are filed with the Chief Electoral Officer, then she has a number of avenues open to her, prosecutions and whatever, and that such a meeting as proposed by the Chief Electoral Officer really adds nothing to the situation because the returns are supposed to be correct as filed at the present time.

Mr. Blakeney: — Mr. Speaker, I would agree with the hon. member that the Act sets out provisions to the extent that the returns do not comply with the provisions, then there has been a failure to disclose fully. I do not necessarily agree that the interpretation of the provisions is not open to argument and that accordingly the returns may not have been filed on different basis in good faith. I am advised by officials of the New Democratic Party (and I won't speak for others) that in their judgement the return did not require receipts; that the provisions of the Act did not require them to file receipts on request by the Chief Electoral Office, and an indication that other parties had filed receipts, the New Democratic Party then assembled the receipts and forwarded them. If that be the case then this is an instance of a legitimate difference of opinion as to what the Act required.

Mr. Malone: — Mr. Speaker, final supplementary.

Mr. Speaker: — Order. I think I will take a new question. The member for Saskatoon-Sutherland.

Filing of Election Returns

Mr. H.W. Lane (Saskatoon-Sutherland): — Mr. Speaker, a question to the Premier. Could the Premier explain to this Assembly how the New Democratic party could file a different return, which is also incidentally late by 15 days with respect to the Pelly by-election . . .

Mr. Speaker: — Order, order, order! The Premier can't speak for the New Democratic Party.

Mr. Lane: — Well could I ask . . .

Mr. Speaker: — It's not within his jurisdiction.

Mr. Lane: — Well can I ask . . .

Mr. Speaker: — I'll take the next question. The member for Wilkie.

Mahe Report

Miss L. Clifford (Wilkie): — Mr. Speaker, a question to the Attorney General. The Attorney General and the Minister for Northern Saskatchewan have had the Mahe Report for some time and I would like to know first of all, were the charges made by the members on my left and others valid and second, will the camps be reopened and when is your proposed date if they will?

Hon. R. Romanow (Attorney General): — Mr. Speaker, I intend to make a statement on Ministerial Statements today which will in effect table the Mahe Report and give some ministerial indication of some of the questions that the member asks. So perhaps if you could wait until that time, you give a response, and if you are not satisfied with it, tomorrow in question period.

Miss Clifford: — I would ask if the Attorney General would permit a question after he tables the report and makes his Ministerial Statement?

Mr. Romanow: — I will, if the House will, sure.

Filing of Election Returns

Mr. Lane (Saskatoon-Sutherland): — Mr. Speaker, a question to the Premier as minister in charge of the Chief Electoral Office for the province of Saskatchewan.

Could the Premier explain in that capacity how the NDP could file a different return from the one already filed, which is also late by 15 days with respect to the Pelly by-election, without a court order contrary to The Elections Act?

Mr. Blakeney: — Mr. Speaker, I cannot explain that except as I am advised by the Attorney General, informally, in a conversation with him, that there is no provision in The Elections Act which requires a court order for filing an amended return by a political party. The provision in The Elections Act deals with the filing of amended returns by candidates and refers to a court order. There is no companion provision with respect to amended returns by parties. Perhaps there should be but the interpretation that has been given to me is that there is no such provision in the Act.

Mr. Lane: — Mr. Speaker, a question again to the Premier in his capacity as minister in charge of the Chief Electoral Office.

Under The Elections Act, Section 202J(1)(a), the Act specifically spells out that within six months after an election a party is to file with the office of the Chief Returning Officer a list of contributions. No such list appears in either one of the two different returns filed by the New Democratic Party. In light of that, will you, in light of these apparent contraventions of The Elections Act and the failure of the NDP to disclose a list of required contributors to this election, will you instruct the Chief Electoral Officer to also investigate the NDP with respect to their return in the Pelly by-election?

Mr. Blakeney: — Mr. Speaker, I will give no such instructions. I have given her no instructions to date and I do not propose to give her instructions with respect to who should be prosecuted and who should not be prosecuted. She will seek advice from her legal advisors and she will not, I trust, take instructions from me on that point. She has made the decision to ask for explanations from all of the parties concerned. If I may say so, it seems to me to be a reasonable decision. I expect that having received comments

from all of the parties concerned she will make certain comments or recommendations to the Attorney General and no doubt he will act upon them in his capacity as Attorney General.

Mr. Lane (Sa-Su): — Final supplementary. You say, Mr. Premier, that she will no doubt consult her legal counsel. As late as yesterday she said to me, “I have received information that there is no such requirement in law from Don McKillop and other government solicitors.” Will you keep your government solicitors away from her and allow her to have this done with her own private counsel from here on in.

Mr. Blakeney: — No, sir, I will not. She will get her legal advice from whom she thinks best and if she does not wish to take the advice of the hon. member for Saskatoon-Sutherland, I will congratulate her on her good judgement.

Some Hon. Members: — Hear, hear!

Mr. Blakeney: — I think that statements like that are in effect statements designed to intimidate. I very much believe she will not be intimidated. She will take advice from whom she wishes. She will tender comments to the Attorney General and he will make his judgements about prosecutions or otherwise and I want to assure the hon. member in this House that I will give her no instructions as to whom to prosecute and whom not to prosecute.

Mr. S.J. Cameron (Regina South): — A question to the Premier on the same subject. The Premier indicated some days ago that there was an investigation taking place with respect to the Conservative return filed in regard to the Pelly by-election. Can you tell us if that investigation is continuing? Who is conducting the investigation?

Mr. Blakeney: — Well, Mr. Speaker, if I left that impression, I did not mean to leave that impression. I did not, I believe, say that that investigation was taking place but rather that the matter was being looked at by the Attorney General. I think that is, in fact, the case or was, in fact, the case.

Mr. Cameron: — A supplementary for clarification. Do I understand then that there are in effect two inquiries going on, one by the Chief Electoral officer that you have been talking about and a second inquiry taking place or being conducted by the Attorney General?

Mr. Blakeney: — No, I think the answer is no to that. I think that the Attorney general upon looking at the matter decided, I believe in consultation with the Chief Electoral Officer, that he would not proceed to request an investigation at this time but would rather follow the course of action suggested by her that she speak with all of the parties involved.

Mr. Cameron: — Well, after the Chief Electoral Officer has reported either to you or through you to the Attorney General, he will then have to make a further decision and that is whether to continue his investigation and would that involve the use of police in the usual way?

Mr. Blakeney: — The answer to the hon. member's question is, yes, except with the word ‘continue’. If you will delete that word and insert ‘commence’, then I agree with your statement. When the Chief Electoral Officer reports then it will be incumbent upon the Attorney General, on the basis of the information decided, to see whether or not he

should in contemplation of further action and presumably proceed with an investigation by the use of the police and then lay appropriate charges if that's what he has in mind.

Canadian Beef Exports

Mr. L.W. Birkbeck (Moosomin): — Mr. Speaker, a question to the Minister of Agriculture. Mr. Minister, on January 3 in response to a question that I had put to you regarding the American cattlemen picketing border crossings, I expressed concerns that the good relationships we have had with the American people, between Canadian and American producers of beef, that these good relations could be deteriorating and that a bad situation was arising. Mr. Minister, you quoted on that day, "I would think that nobody is stopping those cattle from going across the border." Now then, Mr. Minister, are you still claiming this in view of the reports, (1) trucks are being turned back, (2) prices have dropped by \$1.50 at the Winnipeg Cattle Exchange. Retaliation by Canadian cattlemen is being considered.

Hon. E. Kaeding (Minister of Agriculture): — Mr. Speaker, I think members will be aware of what is happening at the border points, that there have been some trucks turned back. We regret that. It's also true that the price of cattle at the Winnipeg market has dropped by about a cent and a half a pound and that's regrettable. However, I would suggest that it would be rather improper for this government to meet with people across the border and try to resolve the problem. I think this is a matter of international trade and something which needs to be dealt with by the senior levels of government. We have expressed our concern to the federal government on this issue and they have advised us that they are having some conversations with the American government in this regard. I think at that point we have to stop.

Mr. Birkbeck: — Supplementary, Mr. Speaker. In light of your statement now, agreeing with me that there are very regrettable ramifications from this dispute, are you saying that as Minister of Agriculture and responsible for the cattle industry here in this province that you are not taking, do not plan to now or in the future, any action to resolve this problem and to ease some of this growing violence that we have at this border crossing?

Mr. Kaeding: — Mr. Speaker, I don't recall having heard of any statements of any violence taking place on the border. As I understand it the trucks are not crossing at the present time. We have been discussing with farm organizations in the province — and I think that's the proper route to go — and suggested to them that they should be talking to their friends across the border; they seem to have a good relationship between the beef producers on both sides, that they should be explaining the situation to their American friends and approaching it in that manner. I don't know whether he would suggest that we should go down there and put policemen on the border and blast those trucks across. I don't think that would lead to good relations with our American friends.

Mr. Birkbeck: — Final supplementary, Mr. Speaker. Mr. Minister, are you not aware of the slashing of transport truck tires in eastern Canada at those border crossings. Are you not aware of that? Is that not violence that those trucks were not permitted to proceed to the United States with Canadian cattle?

Mr. Kaeding: — Mr. Speaker, I don't know what he would suggest that we should do if people are slashing cars in eastern Canada. I hardly think that is within our

jurisdiction.

Some Hon. Members: — Hear, hear! (Laughter)

Mr. J. Wiebe (Morse): — Mr. Speaker, a supplementary question to the Minister of Agriculture. Let me first of all say to the Minister of Agriculture that I am very pleased that he, himself, and his government are not directly getting involved and because if the incident in North Portal is against Canadian and US trade laws, that he is allowing the normal channels of involvement to take place through the normal authorities through Washington and Ottawa. Could I ask the Minister of Agriculture, because his department has made grants available to other farm organizations such as the National Farmers' Union, would his department be prepared to make grants available to the Saskatchewan Stock Growers' Association, for example, and other livestock associations in the province to go down to the United States and explain to them the very great benefits that accrue to the livestock industry, not only in Canada but in the United States, because of the mutual agreements which have existed between the two countries up to this point?

Mr. Kaeding: — Mr. Speaker, first of all I want to say that we have made no grants to anyone to deal with the beef situation. I think that he might be aware that some of these organizations, some of the Saskatchewan organizations have already been in contact with their fellow beef producers in the United States to talk about some of the issues and to discuss what joint action they might take between the two governments to resolve some problems in the beef industry. I think that is the proper tactic to take.

Chief Electoral Office — Purpose of Meeting

Mr. E.F.A. Merchant (Regina Wascana): — A question to the Premier, as the minister reporting for the Chief Electoral Officer. Would the Premier indicate to the House what the purpose of the meeting that the Chief Electoral Office has called and would the Premier indicate whether this meeting is a meeting that is a part of the investigation which might result in charges being laid against a party and perhaps others? Is this a meeting where people should bring lawyers; is this a meeting where one would make admissions against interest and those admissions could then be used against the party in a court of law?

Mr. Blakeney: — Mr. Speaker, I am unable to give a legal characterization to the meeting. I understand it to be just what I have attempted to explain, a meeting at which the parties will be asked to give additional information to the Chief Electoral Officer. I expect that if parties which to appear there with their solicitors or counsel that this would be within the rules. I would expect that any information given at such a meeting would be of the same character as information which might have been given in the return itself i.e., to the extent that it is usable against anyone in a prosecution, the return itself, I would expect that any information given at such a meeting would be similarly available.

Mr. Merchant: — Supplementary. Mr. Speaker, would the Premier not agree with me that if there is any discrepancy in the returns then the appropriate course of action to the Chief Electoral Officer is to investigate and then prosecute and if there are no discrepancies then there would seem to be no purpose at all to the meetings? So that, if I might go further with the Premier, Mr. Speaker, would you not have to characterize these meetings as a meeting where she apparently will have some power to negotiate non-prosecution? I wonder how the Chief Electoral Officer can be dealing with parties that are now subject to prosecution and letting them off the hook if they step up now

and say things that they should have said when they filed their original return and in the case of one party, didn't bother to say.

Hon. Mr. Blakeney: — I think I disagree with the characterization of the meeting put by the hon. member. The Elections Act is a document which is not clear in its terms in many areas. I am pleased to note that the hon. members opposite agree with that. Indeed, they suggest that it is a very careful and perhaps understatement of the facts. Accordingly for the Chief Electoral Officer, before deciding that she should ask for further investigation, to give all parties an opportunity to explain why in their opinion the documents they filed comply with the provisions of the Act or possibly to explain reasons why the full compliance was not achieved seems to me to be a reasonable act on her part. I do not agree that it is in any sense a bargaining session at which she will, in exchange for additional information or admissions, give agreements that she will not recommend prosecution or as the case may be. I doubt very much whether it is in her power to give to anybody else officially or unofficially immunity from prosecution and accordingly I think that meeting cannot be characterized as the hon. member for Wascana has done.

Mr. Merchant: — I take it then from what the Premier says that she has no negotiating authority from you to deal with the parties and that if a party has miraculously been beneath the spending limits that that party would probably face prosecution regardless of whether they attend that meeting and regardless of the information that they might give at that meeting.

Mr. Blakeney: — I think I best answer that question by saying she has no authority from me to deal with any instances where parties, by miracle or otherwise, have managed to file returns which indicate expenditures below the ceilings.

Golden Acres Motel — Moose Jaw

Mr. W.C. Thatcher (Thunder Creek): — Mr. Speaker, I must ask this question to the Minister of Industry, Trade and Commerce in charge of SEDCO on behalf of constituents or people in Moose Jaw North who are having a great deal of difficulty in getting their own MLA to ask it. There is a SEDCO mistake on the north edge of Moose Jaw known as the Golden Acres Motel which, on my way down to Regina today, I noticed had some smoke billowing out the top of it. As the minister is undoubtedly aware, even though it was before his tenure, this motel was financed primarily by SEDCO funds to a group of individuals whose claim to business was that they had strong ties to the NDP Party. Subsequently . . .

Mr. Speaker: — Order, order. I will take the next question.

Filing Election Returns

Mr. S.J. Cameron (Regina South): — A question to the Premier again on the subject of the election returns with respect to Pelly. Can I ask the Premier if what the Attorney General is doing in respect of the returns of the various parties with regard to the Pelly by-election, is he gathering . . . has the Attorney General been gathering any facts with respect to the allegations which appeared on CBC television about an over-expenditure or over-expenditures by one of the parties with respect to the Pelly by-election and, secondly, is the Attorney General now gathering any facts in respect of those allegations?

Mr. Blakeney: — Mr. Speaker, I am advised by the Attorney General that the answer is ‘no’, that upon hearing the press reports he has asked for some comments or reports from the Chief Electoral Officer and that Chief Electoral Officer has not yet reported and is presumably proceeding in the way which has already been alluded to in the earlier questions.

Mr. Cameron: — A supplementary. Has the Premier or any one of his government received any representations of any variety from the Leader of the Conservative Party with respect to this matter?

Mr. Blakeney: — Mr. Speaker, I had a conversation with the Leader of the Conservative party within this Chamber and in accordance with the longstanding custom, I stopped there.

Golden Acres Motel — Moose Jaw

Mr. R.H. Bailey (Rosetown-Elrose): — Mr. Speaker, I want to address a question to the minister in charge of SEDCO. The property known as Golden Acres in Moose Jaw has been in receivership for the past eight months, attempts have been made to sell the property to other organizations in that particular type of business in the city of Moose Jaw, and my question, Mr. Minister, is, what is the status of that property where there is a great deal of provincial government money in at the present time?

Hon. N. Vickar (Minister of Industry and Commerce): — Mr. Speaker, it is true that the property is in the hands of a receiver and in the courts, and just as early as the day before yesterday we inquired and that’s where it stands and we are trying to push the case along.

Mr. Bailey: — A supplementary question, Mr. Minister. The information that we have, and I presume that the citizens of Moose jaw feel that because of the process which is going on in trying, I would hope, to recapture some of the security that money in the city of Moose Jaw through SEDCO, has become very, very tough indeed. Would the minister comment upon the situation of the inability of Moose Jaw citizens to gather SEDCO money, and is it, in fact, because of the mess that has been caused because of Golden Acres?

Mr. Vickar: — Mr. Speaker, there is enough equity there for SEDCO in Golden Acres, and furthermore, I don’t think that has any relevance whatsoever on gathering SEDCO money for any other citizens in the city.

Mr. Bailey: — A supplementary question, Mr. Speaker. Mr. Minister, with the promotion of SEDCO under your department with such statements as ‘come see us first’, and so on, with the amount of money involved and with the difficulty that your department has had in obtaining a general manager, would the minister not agree at this particular time that because of the inability of your department to attract a general manager, that this is no doubt part of the reason why SEDCO is in such a mess as it is at the present time?

Mr. Vickar: — Mr. Speaker, no, I will not agree that that is a fact.

STATEMENT

Maher Report on Wilderness Camps

Mr. R.J. Romanow (Attorney General): — Mr. Speaker, I would like to table to the members of the Legislative Assembly, a copy of the report of Mr. Justice J.H. Maher, respecting the Wilderness Challenge camps in northern Saskatchewan.

With the indulgence of the House, I have a fairly lengthy statement. I will try to make it as quick as I can. Perhaps they can thumb through to some of the recommendations and make some responses at the appropriate time.

I would like to, Mr. Speaker, take this opportunity to thank Mr. Justice Maher for his thorough job in examining the operation of the Wilderness Challenge camps in northern Saskatchewan. The government will give his recommendations the very serious consideration that they deserve.

Mr. Speaker, the report of the Maher Commission shows that senior Department of Northern Saskatchewan officials acted swiftly on the information available to them in deciding to close the camps. This action was taken well before the exaggerated allegations of abuses were tabled in the legislature. As well, Mr. Justice Maher's report clearly refutes any charges that the government was guilty of a cover-up. Mr. Justice Maher concludes that there was no substance to 15 of the 18 allegations which were held out to the public as examples of so-called abuses committed to the Ranch Ehrlo camps. Incidents which received wide publicity were found to be untrue or wildly exaggerated. One example, if I might, Mr. Speaker, is the so-called 'macaroni' incident . . . thank you, Mr. Clerk. One boy on kitchen detail cooked the macaroni poorly and was to be punished by eating a plate of it. However, he could not eat it and either spit or vomited some of it and was then told to throw it out and clean up the kitchen. This is a far different story from that publicized in which the boy was forced to eat his own vomit.

The media coverage, Mr. Speaker, was nation-wide on this matter, emphasizing the most sensational aspects of the allegations. In doing so there was, in the government's view, a lack of balance displayed by the media. The commission of inquiry clearly brought into focus, the dilemma faced by governments in the four western provinces, in the Territories and indeed, in the whole of Canada. As Mr. Justice Maher states in his first recommendation, the lack of adequate resources for the treatment and rehabilitation of severely emotionally disturbed children must be recognized. I think the situation is recognized in this province by the government and by private agencies. The difficult and serious problem is determining how we are to treat severely emotionally disturbed youths whose behaviour is destructive to themselves and to society.

Rehabilitation of young people is a primary goal. The alternative is to give up on them and waste the potential contained in those lives. As Mr. Justice Maher points out in his second recommendation, however, the difficulty of treatment is compounded by the need to protect society from these individuals at the same time as the individuals are helped to better cope with society.

Mr. Speaker, in Saskatchewan the Ranch Ehrlo Society has been innovative in developing programs for working with juvenile delinquents. Ranch Ehrlo's reputation is its hard earned reward for its successes in dealing with the worst examples of juvenile delinquency.

Now, Mr. Speaker, the most tragic effect of the publicity generated by the Eugene David-Garnet Wipf - Gary Lane disclosures as stated by the Maher report tabled now has been the smearing of Ranch Ehrlo's good name. Exaggerations told by a youth and later retracted by him at the commission were adopted and used by the Progressive Conservatives after the camps had been closed, I emphasize, in such a way as to seriously cripple the work that was being done by Ranch Ehrlo. While claiming to be concerned for the well-being of the juveniles involved, the actions of the Progressive Conservative members for Qu'Appelle and Prince Albert-Duck Lake, in particular, in fact according to Mr. Justice Maher, delayed a reopening of the Wilderness Challenge camps. By these actions they have retarded or even reversed any progress that was being made with these seriously disturbed young boys. In Mr. Justice Maher's words, I quote, Mr. Speaker, "The exaggerated, misleading and in some instances false statements contained in the reports were published extensively by the media. This not only spelled the end of the plans of the society to reopen the camps but may have seriously harmed the credibility of the society itself."

Mr. Eugene David, a former employee of the Department of Northern Saskatchewan comes in for criticism in this report from the commissioner as a result of his behaviour in disclosing confidential material to the Progressive Conservative member for Prince Albert-Duck Lake, Mr. Garnet Wipf, knowing full well the use that would be made of it. I quote Mr. Justice Maher who characterizes his actions as a "flagrant breach of responsibility" and "a vendetta against the concept of Wilderness Challenge camps." Mr. Justice Maher goes on to state that David's "removing and disclosing of confidential material of his employer was a major contributing factor to any damage that may have resulted." To quote again, the commissioner says, "The results of his actions were devastating."

The actions of the Progressive Conservatives in the legislature one month . . . (Interjections) — excuse me, Mr. Speaker, I'm having a little bit of difficulty. The actions of the Progressive Conservatives in the legislature one month after the camp was closed (in the view of the government) were irresponsible in the extreme. They could only have acted out of purely partisan political motives, since at that time the camp was closed and investigations were underway, the report reveals. The damage to Ranch Ehrlo and the boys is yet to be fully assessed. Descriptions such as "torture camps" at the time of the tabling of the reports heard in this House, brought discredit I say, to the Progressive Conservative caucus and to the people of the province of Saskatchewan.

Despite these attempts to embarrass the society and the government, Mr. Justice Maher concluded in his third recommendation, "That the concept of Wilderness Challenge camps be fostered and encouraged providing they are structured as part of a program of rehabilitation conducted along the lines of Ranch Ehrlo camps." As is recommended by the commission, Mr. Speaker, a joint Department of Northern Saskatchewan/Social Services committee will be continuing its study of Wilderness Challenge camps and the regulations under which they should operate. Input from organizations, such as Ranch Ehrlo, will be very valuable to this committee.

As the Attorney General of Saskatchewan, I have to tell the House that I have turned over to the department lawyers the full report of the Maher Commission. I await the advice of my officials as to what, if any, action needs be taken as a result of the information and

recommendations brought to light by the commission.

With respect to Mr. Justice Maher's final recommendations, I can state that the government is considering assisting Ranch Ehrlo with some of the legal expenses borne by it as a result of this inquiry.

In conclusion, Mr. Speaker, I note Mr. Justice Maher's fourth recommendation, "That the government take advantage of the resources provided by non-profit organizations of the calibre of the Ranch Ehrlo Society in attempting to resolve the problem of juvenile delinquency." The resources of private societies are certainly valuable to the government and the government will draw upon and will continue to draw upon the resources of societies such as Ranch Ehrlo.

I thank you, Mr. Speaker, and the members of the House for giving me the time to deliver this somewhat lengthy statement.

Some Hon. Members: — Hear, hear!

Miss L.B. Clifford (Wilkie): — Mr. Speaker, as you recall when this incident took place in one of the last sessions, I asked for an inquiry into the camps to get this out of the political arena and to try to salvage the good that the program was making. I feel that there is absolutely no just cause for bringing something like this into the political arena for political gain. I agree entirely that the accusations were made without concern of the people that they would be affecting or the program. I figure this is cavalier and irresponsible action and has been witnessed by the party to my left on many cases. It is very just and necessary in many cases to get to the bottom of such rumours but there are many other ways in which you can do it, and that is in such instances, by having government departments re-evaluate their programs or by having such persons as Judge Maher look at them, I feel that such a hatchet job has done irreparable harm to the program. I have also previously mentioned in my Throne Speech and on a number of occasions that there is a void in the area of juvenile corrections and services; juvenile offenders from the ages of 16 and 18 particularly, which at the end of this program were mainly in these camps, have little alternative for referral other than the jail situation. The wilderness camps in this case did offer some alternative.

I am pleased to see that the commission recommended that there should be a concentrated effort to try to promote such services for continued assistance for the emotionally disturbed juveniles and to provide alternate programs to the jail situation. I have suggested to the Minister of Social Services and I refer it both to the Attorney General and the Minister for Northern Saskatchewan that perhaps they should look at such a system as the Ontario legislature has done to refer all departments that look after the care of juveniles in the province, to a special division. This new division should be created to consolidate all the special services. This may be one way in which to have continuing programs to help such persons in need.

Mr. Speaker, I feel that in light of this report we take recommendations and apply them as soon as possible. I have previously stated, as well, that this program is indeed of value to the province and we must implement recommendations as soon as possible to offset the negative results that members to our left and others have caused by having these camps closed. I cannot say enough, Mr. Speaker, that such irresponsible action should not be easily forgotten.

Mr. Speaker, during the time of this report I have talked to staff that have worked in the camps. I have read diaries from a number of the staff upon their approval and find that these such as Neil Armitage's would indeed be valuable to the committee to look at, as well perhaps as you have suggested consult other members that have worked there because they indeed understand the needs of such persons as juvenile delinquents and how the province can help them. As well I would ask the government to study my suggestion on trying to implement a new division to consolidate all services for youth in the province that are looked after by the province.

Mr. Speaker, in concluding, the Attorney General said that he would answer a question that I had, at the conclusion of his report. I would like to ask the Attorney General if the government will seriously consider a recommendation to put in a new division and try to consolidate programs of service for the youth in this province?

Some Hon. Members: — Hear, hear!

Mr. Romanow: — I am sorry. I guess my only answer has to be yes, we will look at this particular aspect of it. I must confess that it is slightly out of my . . . like other topics . . . many other topics, I am just not as familiar with this as I should be. I think it is more under Social Services and the Department of Northern Saskatchewan. But I think the general thrust of what you are getting at I can answer on behalf of the government, yes, we will look at that, we will look at all the recommendations and see what we can do to implement them.

Mr. J.G. Lane (Qu'Appelle): — Mr. Speaker, I would like to reply to the . . .

Mr. Speaker: — Order. The hon. member has missed his opportunity to comment on the Ministerial Statement.

Early in this session I decided in my mind that because of the tie between the opposition parties, they would take turns in responding to Ministerial Statements. If they missed that opportunity it would be missed for all time, the reason being that it would be unfair for a legislator to pass up his usual turn to comment and then move in behind the other opposition party and thereby gain possible advantage over the previous statement.

Mr. Romanow: — I wonder if I might just speak to this briefly. My suggestion would be that on this particular occasion I think that the House would be in error (I understand Your Honour's ruling and I fully accept it) but I am asking the members of the House to waive that ruling. We would be wrong, I think, to not give the member for Qu'Appelle, if he is going to be the spokesman on behalf of the Conservative Party, a reply. And I would say that we waive this ask for him to give the reply.

Mr. Speaker: — Are there any other comments? Order!

Mr. Lane: — I would like to make one comment on the point of order, Mr. Speaker. I appreciate the opportunity in the House but, Mr. Speaker, the hon. member who spoke before me, just so that it doesn't happen again, said and prefaced her final remarks by saying, "Would the Attorney General permit a question on the Ministerial Statement?" She then asked the question. I awaited the reply and I apologize to the House for that but she did ask a question. Now my point quite simply, Mr. Speaker, is if we are going to ask a question then do we have a reply or not? On that basis, Mr. Speaker, I would now like to comment on the Ministerial Statement.

Mr. Speaker: — I think the hon. member for Qu'Appelle misunderstood what I was saying. Today, the Conservative caucus, in my mind, had the first opportunity to reply to the Ministerial Statement. They did not take that opportunity because I watched the Conservative caucus for some time before recognizing the member for Wilkie.

Now, the Attorney General has suggested that we abandon that method of doing things. Order, order! If we abandon it for today, as far as I am concerned, we have abandoned it for all time and once the Ministerial Statements are made, I will take the first member on his feet to respond to the Ministerial Statements. Now we must have the rule one way or the other.

Mr. C.P. MacDonald (Indian Head-Wolseley): — Mr. Speaker, may I speak to the point of order? First of all I appreciate exactly what the Speaker is intending to do, in other words to not give an advantage of one party in the opposition nor the other to wait and then rebut the original statements of the first opposition party and I understand and sympathize with his ruling. However, I think that's a good ruling and we in the Liberal opposition have no opposition to it. But I would suggest, Sir, that by moving leave of the House that this would in no way change your original philosophy of handling Ministerial Statements and I would like to move, by leave of the House, that the Conservative Party be given the opportunity to respond on this occasion and this occasion only in reply.

Mr. Speaker: — I think the members have heard the suggestion put forward by the member for Indian Head-Wolseley. Is there unanimous approval for that?

Unanimous approval given.

Mr. Speaker: — The member for Qu'Appelle.

Mr. G. Lane (Qu'Appelle): — I apologize for having missed the last few days and losing the turn as to who spoke, Mr. Speaker. We would like, not having had an opportunity as members well know, to peruse the report. I have very quickly taken a look at the recommendations of Judge Maher. I am interested in the passing comment by the Attorney General as he made the passing comment that 15 of the 18 allegations were either exaggerated or not correct or partially correct or whatever.

We are concerned by that statement in that the Attorney General has just admitted that some of the incidents are true. What seems to have developed (if what the Attorney General said is correct) is that we have a double standard of punishment in the province of Saskatchewan because we have seen actions by the Department of Social Services wherein an adult prisoner was struck in Prince Albert Correctional Centre; the guard was fired; criminal action taken against him. I don't like that. I don't think any members

like that, if what the Attorney General says is correct. We can't have a double standard of punishment.

Now I also will challenge the Minister of Northern Saskatchewan to advise this Assembly that if the reports acted upon, being the reports of Linda Hope and officials of the Department of Northern Saskatchewan and the RCM Police were inaccurate then, of course, why did he close down the camp? . . . (interjection) . . . The camps were closed at the outset. If it was the actions of the Conservative Party that brought about this public inquiry, judicial inquiry, then we are proud of the fact because a judicial inquiry was needed. A judicial inquiry into the operations of the northern camps served some good purpose, as stated by the Attorney General. The Attorney General has stated the recommendations, I say belatedly, much belatedly, "that a study be undertaken of the regulations necessary for the monitoring and control of Wilderness Challenge camps operating in northern Saskatchewan with input from organizations with experience in this area and that new regulations be approved and promulgated."

If it took the actions of the Conservative Party to get that recommendation before the House and the Attorney General has said that no action has been taken for a month, then the inquiry, as stated by the Attorney General, was much needed, an inquiry, we suggest in light of the previous problems at the Challenge camps as investigated by the Human Rights Commission, was long overdue, long overdue.

We will be interested to find out what the Minister of Northern Saskatchewan does about the officials who made the reports; we will be interested to see what actions are taken with regard to what the Attorney General has said is an inadequate investigation by the RCM Police.

Now, from the recommendations that I have read and from the statements of the Attorney General, an inquiry, a judicial inquiry was needed. A public inquiry was needed. The recommendations have to be acted upon immediately. It is belated. A study of the regulations, years after the implementation of wilderness camps, is long overdue and if it took a judicial inquiry to bring that to the government's attention, because we remember well, as the Attorney General has said, that the camps had been closed prior to any public statements by anyone.

COMMITTEE OF THE WHOLE

Bill No. 47 — An Act to provide for the Taxation of Income from Oil Wells

Hon. R. Romanow (Attorney General): — Mr. Chairman, I have here beside me Mr. Roy Lloyd, immediately behind him is Mr. Bob Moncur and immediately behind me is the former deputy Attorney General, now the head of our constitutional branch, Roy Meldrum. We may from time to time, if the going gets tough, ask other officials to come and help, we'll see how that develops; I don't anticipate a tough going on this so no problems.

Mr. Chairman, I should also say while I have the floor that there will be a series of House amendments which I will be introducing and I will be asking if the Clerk's office table has those. Perhaps you could distribute those to the Leader of the Liberal party and the — I guess it's the, are you deputy leader, Bob, are you deputy leader — well anyway, Mr. Larter from Estevan. They can study these in the course of their remarks. OK, I think the Leader of the Liberal Party wants to say something.

Mr. E.C. Malone (Leader of the Liberal Opposition): — Mr. Chairman, I would like to make a few remarks on this particular section before dealing in some detail with the amendments that we propose to make to the various sections of the Act when we get to them. I would like to begin, Mr. Chairman, by once again stating our opposition to this bill.

When the bill was introduced by the Attorney General and in public statements by himself and in public statements by the Premier and other government officials, it was indicated that the purpose of the bill was two-fold. Number one, to retain for the people of Saskatchewan the sum of some \$580 million which was collected illegally under Bill 42. Number two, to make sure that in the future the oil industry would be paying a just amount of taxes for the oil that is produced from this province and to ensure that we are going to have production of this valuable resource in Saskatchewan. In our view, Mr. Chairman, the bill has failed miserably to accomplish either one of these two purposes. We have debated the matter now for some weeks. The government opposite has said that the principle of the bill is to allow these two things to happen. But just because they say that, Mr. Chairman, doesn't necessarily mean that that will happen. Indeed, from our reading of the bill and I again repeat myself, we see this bill as nothing more than an invitation to the oil industry to attack it and its provisions. We believe that the bill is framed in such a way that it is open to an easy constitutional attack — that some representative of the oil industry will be well tempted to do this, and rather than be facing a bill now of some \$580 million to be paid to the oil industry, that in two, three or four years down the road the people of Saskatchewan will be asked to repay the sum of \$1 billion or more dollars. We wonder, Mr. Chairman, why the government is so intensely wanting to get this bill through. We think that it is for political purposes and for political purposes only. They feel that if this bill is passed the people of Saskatchewan will forget about the issue. They hope desperately that there will be no court attack on the bill until after the next election. They think that after the next election they will still be the government and that they will be able to handle the situation at that time. They are wrong in both assumptions, Mr. Chairman, they won't be the government and they won't be able to handle the situation.

Mr. Chairman, this bill to me once again demonstrates in a very real way the incompetency of the Blakeney government. The incompetency in this government that we saw or at least I saw beginning in 1973 when I first entered this legislature after a by-election. It was very interesting, Mr. Speaker, when I entered this particular session the bill that was before the legislature was Bill 42 and I had the pleasure of making my maiden speech on that particular bill, a speech that has been referred to from time to time in the debates that have taken place on Bill 47. At that time, and again I reiterate, we warned the government that they were going down a dangerous road. Our critic for the Department of the Attorney General, now Mr. Justice McLeod, very clearly spelled out to the members opposite that this bill was unconstitutional for two reasons, that Bill 42 was unconstitutional for two reasons — infringement on Trade and Commerce and an indirect tax — and indeed that prediction came true in the recent CIGOL decision, the majority decision being written by Mr. Justice Markland.

We have again made other predictions, Mr. Speaker, in connection with Bill 47. We believe that they are going to come true as well. Because of the government's intransigence, its rigid attitude towards taking advice from the Liberal Party or from other sources, we believe that in due course Bill 47, if it is allowed to remain in its present condition, will likewise be struck down by the Supreme Court of Canada.

I talk about the incompetency of the NDP, Mr. Speaker. Indeed, it is a record of

incompetency unparalleled probably in Saskatchewan's history, not just Bill 42, but their whole legislative approach in the resource sector. Bill 42 we don't have to talk about any more because we know how stupid the government's approach was in that regard. But look at some other things in the resource sector . . . the potash industry, Mr. Speaker, the exercise that we are going through right now is no doubt going to be repeated, maybe this year when the potash taxation legislation is struck down as well. We believe that that legislation, that reserve tax legislation, is no more valid than Bill 42, and that we are going to be back in this legislature in the very near future trying to patch and repair once again to keep for the people of Saskatchewan the sum of some \$300 million that was collected under that particular tax. That's a prediction, Mr. Speaker, that I know will come true in the days ahead.

But let's go beyond potash. Let's look at uranium. The government had months and months of negotiation with the uranium industry. They finally, after very long hard deliberations with the uranium industry. They finally, after very long hard deliberations, hammered out a royalty structure which was agreeable to the industry and agreeable to the government. Those negotiations didn't take place over a period of days or weeks. They took place over a period of months. Once the negotiations were finally completed one would have thought that the industry would now be proceeding and developing the uranium resources of this great province. But suddenly the government woke up; it suddenly dawned on them that to produce uranium in Saskatchewan there may well be some environmental hazards to the miners of the particular product and indeed to the world. So again, rather than going ahead with the development after the negotiations had taken place, it finally dawns on them that they had better have a commission of inquiry; a commission of inquiry that has yet to report to this legislature; a commission of inquiry that has done, in my view, a tremendous job in seeking out evidence and opinion as to whether or not it will be safe to produce uranium in Saskatchewan. But again, an incompetent government, a government that should have recognized that such a commission of inquiry was required, not after the royalties had been negotiated, not after millions of dollars had been spent by the private sector and others in Saskatchewan, but before all of these things took place. But they didn't. Once again, Mr. Chairman, the people of Saskatchewan are going to pay the cost and pay dearly because of the incompetency of the NDP.

What we see is a form of government, Mr. Speaker, that I refer to as Blakeneyism; a form of government that says all we have to do is get up and say — our policies, our ideas, our legislation — is right and proper and just and, therefore, it is. We don't care what the people of Saskatchewan think about our legislation. We don't care about those who are most directly affected by this legislation, what they think about it. We don't care what the courts say about it. If we say the legislation is right, therefore it is right. And the Blakeney record in that regard, Mr. Speaker, is absolutely incredibly bad.

So what we are starting on now, Mr. Speaker, is probably the first of a series of bills to patch and repair Blakeneyism, Blakeney legislation that this province unfortunately has been condemned to since 1973.

Now, Mr. Speaker, it is very easy for us in the Liberal Party to adopt the procedure of those who sit to my left and really sit back and do nothing and say, oh we agree, or, oh we disagree and that's really been their sole contribution to the debate so far. Except for one particular instance, Mr. Chairman, and that was the member from Estevan. When he got up the other day and gave a good speech, I thought it was an excellent speech — he kicked the living daylight out of the government about Bill 47. He gave a speech that I agree with completely in concept, the ideas in it. A type of speech that we have heard many times in this legislature perhaps delivered in a better manner by the

member for Indian Head-Wolseley or other members of the caucus, but a speech that we agreed with. But what was the conclusion after the speech — after saying that Bill 47 was terrible, after saying that socialism was awful, after saying that the government was incompetent. What do the Tories do — they say they are going to vote for the bill anyway. What kind of exercise in hypocrisy is this, Mr. Chairman? Surely the Tories can't expect to have it both ways. I suggest, Mr. Chairman, that they are going to find they are not going to get it either way in the days ahead. So, Mr. Chairman, I think it has been pretty apparent for the past few weeks that we in the Liberal caucus have done several things which in our view would improve this legislation. Things that we believe would have resulted in not only the \$580 million being retained for the people of Saskatchewan, that would have insured a development of the oil industry in this province for generations to come. Those suggestions have been rejected out of hand by the government that sits to your right. Those suggestions which we feel were appropriate and proper have not even been given any worthwhile consideration.

Mr. Chairman, we are not prepared to stop, we say the bill is bad, we intend to vote against the bill unless some of the amendments that we have proposed to date are going to be followed by this government. We are going to continue to propose amendments, Mr. Chairman, because we think that this bill is going to be bad for the people of Saskatchewan, is going to put a mortgage on the future of this province for generations to come and we can't sit here event though we are in opposition party, and keep silent as those who sit to my left have been doing about this legislation.

So, Mr. Chairman, what I would like to do now is run through as quickly as I can the series of amendments that we will be proposing in the days ahead on Committee of the Whole. I am not sure what the government amendments are, I have not had an opportunity of looking at them, perhaps they will be similar to the amendments that we propose although I doubt that very much.

Mr. Chairman, the amendments that we proposed we believe will try to repaid the bill. We are not saying that it is going to be an absolute type of repair job where the bill will be found to be constitutional without any problems at all, it is the second best type of approach. But the first best type of approach we have advocated has been rejected by the Tories and rejected by the NDP. We have no alternatives but to take the next approach, Mr. Chairman. So I would like to run through as quickly as I can, Mr. Chairman, a series of amendments that we intend to propose in the next few hours and next few days. Some of a substantive nature, some of a technical nature. When you look at the bill, Mr. Chairman, it is very apparent that the key figure in this legislation is not going to be the minister, it is not going to be the Cabinet, it is not going to be the members who sit opposite, it is going to be a person called an assessor. A person who is going to be given tremendous powers under Bill 47. Investigative powers, assessment powers, powers that are probably more far reaching than any government official has at the present time in Saskatchewan, if indeed not in all Canada. We would suggest therefore, Mr. Chairman, that this particular person, the assessor must be a person of some experience, of some knowledge in accounting, a person who has some degree of faith being put in him by the oil industry, by the government, by the people of Saskatchewan. We are not prepared, Mr. Chairman, to just have some government functionary be appointed by Order in Council to fill this very vital job. We are suspicious, Mr. Chairman, it will be the government's intention to appoint some flunky or functionary who in the past has already dealt with the oil company and has little respect from that particular industry. We want somebody in this particular position, Mr.

Chairman, to whom we can look with some degree of confidence to do a job that is appropriate for the powers that are given to him.

Accordingly, Mr. Chairman, we will be moving amendments saying that the assessor must be a chartered accountant, that he must have at least five years of experience and he must be approved by the Provincial Auditor as a person appropriate for the job that is open to him.

Next, Mr. Chairman, we run into the same situation we see in so many bills by the government. For some reason they think they have to keep it a secret, as to which department and which minister is going to be in charge of a particular bill. Now, I can't believe as I stand here today, in about the fourth week of this debate, that the government doesn't know which minister is going to be involved with the administration of Bill 47 or which department is going to be involved with the administration of Bill 47. We don't really care which minister it is. Hopefully, it won't be the Attorney General. However, we don't really care which of the government ministers is given this particular task, so we have suggested, Mr. Chairman, that the most logical person to be involved in administering Bill 47 is the Minister of Mineral Resources. Now we know that his record so far in dealing with the Coronach development and dealing with our neighbours to the south is deplorable, but this is obviously the most appropriate department for this particular bill to be located, and accordingly we will be moving amendments, Mr. Chairman, to ensure that the bill is placed in the Department of Mineral Resources, and that the Minister of Mineral Resources is responsible for its administration.

Next, Mr. Chairman, we think that the government is trying to set up a double-barrelled standard, a standard for the private sector of the oil industry and a standard for Saskoil. We believe that Saskoil will be receiving favourable treatment from the government, that they will be put in a position where they will have an advantage over the private sector. Now, I know the government in the past has said, well all the Crown corporations are going to pay the same taxes as the others in the private sector. I don't believe the government, Mr. Chairman, when they say that. I believe that maybe that is the intention now, but as soon as Saskoil, or PCA or any of the other government corporations start running into trouble, what the government is going to do is exempt them from paying taxes or royalties or fees, or whatever. So to ensure, Mr. Chairman, that this doesn't happen and to ensure that people who search, explore, develop and produce oil in this province are all treated equally, we intend to move an amendment to ensure that Bill 47 applies to the Saskatchewan Oil and Gas Corporation, Saskoil.

Next, Mr. Chairman, we get to Section (3) of the printed bill. This together with Section (7) are probably the guts of the bill. These are the two sections where constitutional attack will be taken by the industry if they intend to pursue this particular line of attack. We believe that any tax as distinct from a royalty or a license fee or a fee or any nature, but a tax, should be approved by the legislature. That is the traditional role in a democratic society of a legislature or a House of Commons or whatever a government body is called. We believe that it is the appropriate role for the Saskatchewan legislature to be able to debate and comment on an income tax. We believe very strongly, Mr. Chairman, that that tax and those tax rates should be brought to this legislature for debate and consideration before they are effective, before they are passed. An amendment will be proposed, Mr. Chairman, in this regard.

There is one other reason for proposing that type of amendment, Mr. Chairman, and that is to, wherever possible, keep the bill from being attacked on a constitutional basis.

The Attorney General, when he introduced Bill 47 some weeks ago, emphasized the fact that what made this bill different from Bill 42 was that it was an income tax, that it was not a royalty, it was not some other device to collect money for the government of Saskatchewan, but an income tax which as far as the Attorney General was concerned, was constitutional, proper, legal and so on.

One of the facets of an income tax is to have the legislature consider it. We believe that if the legislature is not given the opportunity to consider and debate the rate or rates of tax, that it makes it then easy for an oil company or taxpayers, to find in the Act, to attack the bill and say that it is not a true income tax but some other type of device to raise money. Indeed, such an attack will receive some support I suppose from the Premier of the province, because not too many days after the Attorney General got up and told us that this was an income tax, the Premier entered the debate and said, well, it's called an income tax, and the Attorney General said it was an income tax, but it's really not an income tax, it's a royalty, and it is traditional that royalties are set by Cabinet, and it's traditional in Canada when you tax mineral resources or natural resources that they are taxed by royalty structures and that those particular rates or structures are set by Cabinet. Well, again, Mr. Chairman, I say that the government cannot have it both ways. It's either an income tax or it's not an income tax. It's either a royalty or it's not a royalty, and I would ask the Premier and the Attorney General, sometime when they are sitting together across from me, to determine in their own minds which way they are going to go. And it is very important, Mr. Chairman, that this happen, because as many of us know, if there is a constitutional attack upon this bill, the comments of the premier and the comments of the Attorney General can be entered into evidence and be used by such parties who intend to attack this bill, and I say that the premier probably did more harm to the constitutionality of Bill 47 by his comments of the other day, than the comments of all of the others over there combined, by saying that this tax was not a tax, but a royalty and therefore it was entirely appropriate for it to be set in the secrecy of the Cabinet chamber. So we believe, Mr. Chairman, that one of the most important facets of the bill is the fact that this is an income tax. If it is to be a proper income tax then it should be set by this legislature, and we will be bringing amendments in to this effect in due course.

Next, Mr. Chairman, is Section 7 of the bill. Again, as I say, the guts of the bill — Section 3 and 7. Section 7 is rather a commonplace, I suppose, provision of any bill, any taxing statute, until you get to the end of subsection (1) and the end of subsection (2), and we find that really what this subsection says is that it is going to be in the discretion of the minister or the discretion of the Cabinet as to what expenses can be disallowed or what expenses can be allowed by the government in assessing income. Again, not the fundamental qualities of an income tax where the deductions are set out and spelled out on a point-by-point basis in the taxing statute. We say again, that these provisions by themselves of allowing ministerial discretion, or Cabinet discretion, will again be attacked as making the bill unconstitutional because it is not a facet of an income tax, it's a facet of a royalty, a facet of allowing government discretion to do things that the legislature should be doing.

We concede, Mr. Chairman, certain difficulties that the government will have in passing proper deductions from income. We suggest the way to do it is not to do it in the secrecy of the Cabinet room. The way to do it is not to have a minister or departmental official determine what is a proper deduction and what is an improper deduction. The way to do it again, is in this legislature. Now again, that would prove difficult because of the size of the legislature and the complexity of the issues, so we will be moving, Mr. Chairman, an amendment to refer the entire subject matter of

Section 7 to the Committee on Law Amendments for their consideration, so that they can determine what are proper deductions and what are improper deductions and bring back to this House, a series of regulations and rules that can be incorporated in Bill 47 and be allowed to be enshrined in statute. So, again, the constitutional attack on this bill could be lessened because of this particular suggestion of ours.

Mr. Chairman, we go into other sections of the bill. Section 11, of course, is the section that says to the oil industry that they must go back to the year 1973, fill out forms, complete documents, determine the amount of income that accrues from an individual oil well.

We believe, Mr. Chairman, that the industry is going to be most reluctant to do this. We believe that there is going to be a tremendous expense involved to the industry for this accounting and for this bookwork. We believe, as well, Mr. Chairman, that the industry isn't particularly concerned about what has happened from 1973 until now provided they can be assured of a fair deal from now into the future. We believe that if the tax rate or tax rates are structured in such a manner that the industry can see that they will receive a fair return on their investment, they will not bother with Bill 42, will not bother to go back and try to collect, as they may legally be able to do, the moneys that have been paid from 1973 to date.

So what we are proposing, Mr. Chairman, is an amendment to Section 11, an amendment that, in effect, says that the industry or an individual taxpayer can elect to say to the government of Saskatchewan, keep the money that we have paid to you under Bill 42; keep that money and apply it in full on any moneys that may be owing under Bill 47 and we will start again from scratch. We will start from January 1, 1978. Now, the Attorney General is going to get up and say, what sort of nonsense is that, what do we gain by that?

In the amendment we are also proposing, Mr. Chairman, that if an industry, if a taxpayer elects to take that approach he must also indicate to the government that he doesn't intend on pursuing any remedies or rights he may have to collect money previously paid under Bill 42. In legal terms, he stops himself from taking any further action. We suggest, Mr. Chairman, that this is a device whereby we could clear the air for 1973 to the present. We believe, as well, that if the government is sincere in setting fair rates that it is going to clear the air for the future.

Now let me just repeat what I am saying, Mr. Chairman. The industry will be given the option to apply to taxes owing under Bill 47 all taxes paid under Bill 42. If they accept that option then there will be nothing further payable by the industry under Bill 47 up to the present time. But if they decide to accept it, they must also give something and what they give are any rights to recover money that may have accrued to them because of the CIGOL decision.

I believe, Mr. Chairman, that most of the industry would accept this proposition providing the rates that are set in Cabinet are fair. If this option is given to the industry, Mr. Chairman, I believe our troubles are over as far as this particular legislation is concerned as far as the constitutional attack. I urge this course of action on the government, I urge them to consider this proposal.

It is going to be pointed out, of course, that this makes the bill even more colourable and that is fair comment. It does make it more colourable but again it may be worth the chance. It may be worth the chance of putting in this type of provision, making it more

colourable for an attack if there is some chance of clearing up the danger of the past.

It may be suggested, as well, that rather than putting it into this particular bill that there be a separate bill passed, a separate bill providing for this contingency allowing the taxpayer to adopt the course of action that I have suggested. I hope that the Attorney General will give this some consideration and not just dismiss it out of hand, as I suspect that he will do.

We go then further, Mr. Chairman, as to whether there is really any right of appeal under this particular Bill 47. We realize, of course, there is provision that there is a right of appeal from an assessor or assistant assessor or special assessor to the Board of Revenue Commissioners. We don't see that as any really meaningful appeal. The assessors or the Board of Revenue Commissioners, I should say, are people appointed by the government. They will be inclined to listen to the government's wishes. We believe they may just turn out to be a rubber stamp for the assessor and will not give a meaningful hearing to any appeal that comes before them.

We believe, as well, that making this type of an appeal under administrative review is merely a device being adopted by the government to keep the substance of the bill, the substance of matters that could come into issue, away from the courts.

So, in due course, Mr. Chairman, we will be proposing amendments to ensure that the Board of Revenue Commissioners have to give a proper hearing of an appeal and, secondly, that if there is still a grievance by a taxpayer that he has an appeal to the Court of Queen's Bench, not just on a question of law, but on the question of fact and law so that there will be an independent determination by an independent person adjudge as to the fairness or not of the discretion being exercised by the minister, the assessor and governmental officials.

Furthermore, Mr. Chairman, we say that Section 18 of the appeal procedure is patently unfair. If a taxpayer determines to take an appeal to the Board of Revenue Commissioners, the government can examine all his documents, examine officers of the company, examine under oath all employees of the company and so on. That is not unfair but the taxpayer should enjoy the same right with the government and governmental officials; so we suggest an amendment, Mr. Chairman, to permit the taxpayer at appropriate circumstances to examine the minister under oath, any officer or servant of the Crown, including the assessor, assistant assessor or special assessor. Sir, surely basic fairness dictates that what's fair on one side must be fair on the other side. I suspect the government, however, will not see the fairness in the suggestion that I make and will, no doubt, vote against this type of amendment.

Mr. Chairman, Section 21 as I've indicated earlier is probably the most odious, vicious section that I've ever seen in any type of legislation that's come before this legislature. I don't think that there's legislation probably anywhere in Canada that gives such extraordinary powers to a government official. This particular section permits anybody appointed by the government, not just an assessor or an assistant assessor but a special assessor, a person appointed at the whim of the minister to do a number of things. That person, if I happen to be a lawyer and acting for a taxpayer as defined in the Act, may walk into my office or into my house any time of the day, any time of the night, not during business hours, and seize anything I have on those premises. In order to do that he doesn't need permission from the minister; he doesn't need a warrant from the court; he doesn't need permission from anybody, he can decide to do all of these things on his own instance. He simply has to say that I'm going to check into Ted Malone's

home to see if he has any records for XYZ oil company because I know he is the solicitor and he walks in and does whatever he wants, whether I'm there or whether I'm not there. Furthermore, Mr. Chairman, there is this curious provision that says that this person can use equipment, machinery and things to help him in his search for information pursuant to Bill 47. Well what kind of equipment? What are we talking about? Are we talking about wire tapping, are we talking about bugging devices, are we talking about burglary tools? I suggest, Mr. Chairman, that there's probably no more vicious section in an Act in Canada than this particular Section 21. I say that the government does not need the power of this section. For them to take such power unto themselves and in turn transfer it to some government functionary is, to say the least, improper. We will be opposing this particular section, Mr. Chairman. We have suggested an amendment to it, which would accomplish everything that the section seeks to accomplish, by simply saying that the assessor or whatever has to apply X party to a Court of Queen's Bench judge for permission to do the things that he must do, that he'll be allowed to enter onto the premises of the taxpayer during business hours and that that should accomplish the purpose of the particular section. Furthermore, Mr. Chairman, Section 21 provides that an assessor can't divulge information that he receives pursuant to his investigation and that's quite proper, we take no exception to that at all; indeed we'd be surprised if there was not such a section in the particular Act. But I searched vainly for a provision in the Act, Mr. Chairman, that says what will happen to an assessor who breaches that particular statute, who takes the information that he receives through an investigation and talks to somebody else about it, a competitor of the taxpayer, anybody, nothing in the Act whatsoever, Mr. Chairman, to cover that situation. Again, an amendment will be proposed to you indicating that if an assessor or government functionary acts in such a way that he'll be guilty of an offence and punishable pursuant to Section 30 of the Act.

Next, Mr. Chairman, is the typical section of the incompetent Blakeneyism government across the way, Section 25. This particular section says that the government shall have a lien ahead of anybody else for taxes owing. Nothing wrong with that, nothing wrong with that at all, but what it goes on to say, Mr. Chairman, is that it doesn't have to tell anybody about the lien, doesn't have to register it at the Land Titles Office or at the Central Registry office, it doesn't have to do anything. It could have a lien on the property of the taxpayer and not tell anybody about it. That property could be sold to a bona fide purchaser for value but the government would still have a claim to that particular property. Furthermore, the government doesn't have to even be right in its claim to property. It says that any error or omission of any official or neglect of an official is excusable, so it doesn't matter whether the government is right or wrong, whether they decide to register the lien or not to register the lien, they can just go ahead and seize property in any event. Therefore, Mr. Chairman, again an amendment will be proposed to clear up what we say is a very bad section.

Finally, Mr. Chairman, on the amendments that I'll be pursuing in due course . . . I'd like to get to Section 34; Section 34, I think it's fair to say, really by itself, means you don't need the Act, all you really need is Section 34. Because under this section a minister, whether it's Minerals Resources, whether it's Finance, whether it's the Attorney general, can say to a taxpayer I believe you owe us X number of dollars in taxes I don't care what the Act says. I don't care what any other statute says, it doesn't matter, I have the power and it's within my discretion to go to you as a taxpayer and determine that you owe us X number of dollars, pay up, that's what the section says. Mr. Chairman, that type of unbridled discretion in the hands of any minister is I believe contemptuous to say the least, why that type of power is required is beyond me. I hope the Attorney General has

some explanation when we get to this section or in reply to me as to why this particular is necessary. But this section goes further, Mr. Chairman, it says that any taxpayer who manages his affairs in such a manner that he reduces his tax load quite legally, quite within the provisions of Bill 47, still can be assessed by the minister to pay more taxes. And it goes on to say, an avoidance or reduction of taxes may be regarded as improper for the purposes of this Act although otherwise illegal or unlawful. So what it really means, Mr. Chairman, is that again a taxpayer through an efficient operation can reduce his tax load under Bill 47 from one year to the next year quite legally within the Act, quite properly within business parlance but it doesn't matter because the minister can walk in and say you've reduced your taxes, it's improper according to the definition in the Act, therefore, I'm assessing you more money, more taxes, and you must pay me. Again, Mr. Chairman, a provision that's distasteful and odious at the very best. Now, I know that the Attorney General is probably going to stand up and say, well, this particular section is in the Income Tax Act, Canada, and indeed it is, Mr. Chairman. It was placed in the Income Tax Act, Canada, during the war. And the reason for placing it in the Act at that time was to prevent against war profiteering, whereby some companies were still getting away with a light tax load and ripping off the taxpayer of Canada during war time for millions of dollars. The federal government at that time felt we needed extraordinary powers to deal with that situation. Accordingly, this section was put in the Income Tax Act, Canada, a slightly different section — their minister doesn't make the determination there, the Treasury Board makes the determination. It is very interesting, Mr. Chairman, as well, if you read the debates out of Hansard in the House of Commons about this particular section. It was very clear that it was there for extraordinary purposes and for that reason alone. And, you know something, Mr. Chairman, this section has never been invoked in Canada since it was passed, never been used. Competent government don't need sections like this in taxing statutes.

Some Hon. Members: — Hear, hear!

Mr. Malone: — Mr. Chairman, I say that this section is bad, that there's no reason for it in the Act, that it should be taken out of the Act. There is no way it can be amended to make it more tasteful, there's no way that this section belongs in the Act whatsoever. I would invite the Attorney General to explain why this extraordinary power is needed, and if he can't explain it I hope that he will take the step that may be courageous on his behalf and amend the Act or follow our amendment and delete the section from Bill 47.

Mr. Chairman, there is a number of other amendments that are going to be proposed in due course by my colleague, the member for Regina Wascana. I believe as we go through the Act we'll be having other amendments being prepared as we proceed as matters come before members in this caucus. But I believe, Mr. Chairman, that the amendments that I have made and have suggested and will be moving in due course, possibly will cure the defects of Bill 47, possibly will allow this matter to be settled once and for all and permit the people of Saskatchewan to not be concerned about having to pay back these enormous sums of money now or in the future. I urge the members to my left, I urge some of the thinking members opposite, the very few that they have, to give careful consideration to the amendments that we propose, because I believe, Mr. Chairman, that these amendments will make Bill 47 work, that they will get away this cloud that's hanging over our head of \$580 million being paid to the industry and perhaps, most important of all, we'll make sure that this fantastic resource we've been blessed with in Saskatchewan will be produced in the years ahead for the benefit of the people of this province.

Before taking my chair, Mr. Chairman, I want to move a motion. It became apparent

yesterday that the government has received from outside legal agencies, whatever that means, I assume law firms outside of the province or outside of government, opinions as to the constitutionality of Bill 47. We've been told by the Attorney General in debate that in his opinion the bill was constitutional. We received the same advice in 1973 and obviously he was wrong then, I suspect he may be wrong now. The Premier, according to the Leader Post, announced yesterday that he'd received advice saying that the bill was constitutional and, therefore, they could proceed with it. I say, Mr. Chairman, that if the government has nothing to hide, if these opinions that they have received from legal offices outside of the government or outside of the province, declare the bill to be constitutional, they should table them. They should table them for the consideration of all members for us to determine whether the opinions are valid, and I trust they will be, if they've got nothing to hide. Mr. Chairman, there is no reason why these opinions should not be given to this legislature. May I suggest, however, Mr. Chairman, that if they are not tabled, I think that all of us in this legislature can make the logical conclusion, the logical conclusion being that they don't have opinions that say that Bill 47 is constitutional, I think it's time for the government to put up or shut up. I think it's time, Mr. Chairman, that the Attorney General not just stand up and give bland assurances about the constitutionality of this bill that he give us some proof, give us some of the things we have been asking for over the weeks, that he does have some sort of opinion from some knowledgeable figure that this bill is going to do the job he says it's going to do. Accordingly, Mr. Chairman, I move, seconded by the member for Wascana:

That the Attorney General immediately table all legal opinions received by the government dealing with the constitutionality of Bill 47.

Some Hon. Members: — Hear, hear!

Debate continues on the motion.

Hon. R.J. Romanow (Attorney General): — Mr. Chairman, I will have some lengthy remarks, I suppose, in rebuttal to what the Leader of the Liberal Party has said or stated during the course of his opening remarks on clause 1. I wasn't sure whether I should give the Conservative caucus a chance to speak o No. 1, but undoubtedly they will have a chance, presumably after I sit down, since the Liberals have explained their position. I want to start off by making a remark with respect to the motion which is before this House. The motions says that the Attorney General immediately table all legal opinions received by the government dealing with the constitutionality of Bill 47. Now, Mr. Speaker, I do not accept the proposition that by not tabling the opinions which I have no intention of doing . . . (interjection) . . . unless I hear some commitments from the Leader of the Liberal Party and the Leader of the Conservative Party which I'll get to in a moment. I won't get into the arguments with respect to the question of the propriety of, in a parliamentary democratic system, the minister tabling internal documents which are forwarded and prepared for him for the preparation of legislation. Otherwise, I think that that is virtually unprecedented in parliamentary practice. I recall very vividly, Mr. Chairman, the remarks of the Leader of the Liberal party during the course of the emergency debate on November 23, that I was the man who was responsible and I should resign. I recall a great lecture during the course of second reading and a great speech it was too, not only a lecture but a great speech from the member for Regina South about where the doctrine of ministerial responsibility had vanished. And yet, look at this motion that's before us, Mr. Chairman. The motion says that what I should do is table all the legal opinions received by the government dealing with the constitutionality of Bill 47. Now I ask the Leader of the Liberal Party, if I do and if you are

right that Bill 47 will be declared unconstitutional, will you then blame me? And if you give me a commitment now in writing or verbally, because it's being recorded, that on tabling of these constitutional opinions which opinions by the way say that Bill 47 is constitutional and I'm satisfied that it is, that if what you predict comes about is in fact a one which ministerial responsibility does not attach to, then I think perhaps we have the basis of some sort of a discussion because it is not relevant to the consideration of tabling of legal opinions, yet I'm the one who's going to end up being responsible regardless. And that's exactly the position that you people have been taking. It doesn't matter what the opinions are, whether the 100 per cent thing to do is constitutional. I'm 100 per cent minister responsible according to your theory. And that's theory, by the way, that I accept. Now I believe . . .

Mr. Cameron: — What's the consequence, what if you are speaking in error?

Mr. Romanow: — The consequence of making an error depends on, of course, the circumstances and the nature of the error. I don't believe that the consequences of an error is a consequence of resignation.

An Hon. Member: — . . . responsible . . .

Mr. Romanow: — I am saying that — well, Mr. Chairman, the member for Qu'Appelle obviously is caught on the horns of a dilemma here because you can't have it both ways. You can't say to me, table the opinions, and the opinion is tabled which, for example, on your paranoiac theory, would say that the bill is unconstitutional and then seize on that while at the same time saying I am responsible. You can't do them both. You have got to have one position and that is that I am responsible for the documentation of the opinions that are before me or I am not. If the Liberal Party says in writing, puts it down in a letter that I won't be responsible if the opinions say that this bill is constitutional then you have it, then I will consider the tabling of the document. (Interjection) . . . Well, I will run it by, I will run it by, I will run it by for the Leader of the Liberal Party and I want him to carefully consider this. You say the minister is responsible, do you say that or not? Right, of course. If the minister is responsible what does it matter then what the opinions say because if the opinions say . . .

Mr. Malone: — Do you want me to answer it now?

Mr. Romanow: — You can answer it in a minute. If the opinions 100 per cent said that the bill was constitutional, 100 per cent without equivocation, and if what you said was right comes true, who pays the price? I do. So what's the purpose of the tabling of the opinions?

Mr. Malone: — Do you want me to answer now?

Mr. Romanow: — Just take note and you can answer in a moment. I am saying to the member for Lakeview that the obvious answer there is a little bit of political gamesmanship. The obvious answer is to take the opinions given by competent and qualified people and make political speeches out of it, that's what the Leader of the Liberal Party wants to do. He doesn't want to look at these opinions in any kind of a legal, honest and fair approach, he wants to use these opinions in a political approach. He will want to use them against me if there should be an opinion which says the bill is unconstitutional and he will also want to use the opinions against me if the opinions say that the bill is constitutional and the bill in the ultimate end should be declared unconstitutional. That's not playing fair pool. That's playing pure politics. That's what it

is and I say, Mr. Chairman, that this kind of a motion characterizes the entire position of the Liberal Party on Bill 47. The entire position of the Liberal Party on Bill 47 has been a position of obstruction, of opposition to this Bill 47. They say it is because they are concerned about the constitutionality of the bill.

Mr. Chairman, let me just test this proposition for a half a second. I almost fell off my chair when I heard amendment number five in the order as stated by the Leader of the Liberal Party relating to section number 11 in the expense of the industry. Now just listen to the proposition about competency and incompetency. The whole proposition of the Liberal Party as stated by the leader was this afternoon for an hour as follows:

This Bill 47 is unconstitutional as it's framed, consequently I am going to be representing amendments which will make it more constitutional. Consequently, here are my proposed amendments of which one is section 11.

What is Section 11 to do? Section 11 is to do something called splitting the bill or something of which the end result will be that the government should go to the industry and say that if you don't complain about past taxes we will give you a break on future taxes. Well, Mr. Chairman, if that doesn't amount to intimidation, if that doesn't amount to an act of colourability, if that doesn't amount to an unconstitutional proposition then I have never heard of an unconstitutional proposition. And, Mr. Chairman, the Leader of the Liberal Party says he is proposing this because he is trying to patch up this bill to make it constitutional. 'Now the bill is bad, we oppose it, we are going to propose amendments' and then look what they propose. They say that we should go to the industry and say to the industry that if you don't give us what we have collected under Bill 42, holus-bolus, if you don't complain there, we are going to give you a tax break in the future. Somehow, the Leader of the Liberal Party says that if we split the bill we avoid the constitutional problem. Well, surely, Mr. Chairman, this is naivete to its most extreme. It is absolutely one to its most extreme . . . (interjection) . . . I think the member for Thunder Creek has made a Freudian slip here because he really would rather be back where he came from, I think, these days but nevertheless, I am not sure that he is particularly welcome there although their philosophies are very close.

An Hon. Member: — . . . occupy . . . chair.

Mr. Romanow: — A self-fulfilling prophesy. So I say, Mr. Chairman, with respect to this argument that is advanced by the Leader of the Liberal Party that it simply does not wash. I was about to say that the suggestion that somehow to get around the colourability position on Section 11 that I am talking about and I think clearly that would be colourable to get around that because to split the bills that that would be an answer I think is a non-answer. There are many cases, I don't have them handy but I am sure I could get them over the supper hour. One, I think, sticks in my mind, I think it's Texada case in British Columbia where the courts looked at two bills. They were separate bills but they looked at them together and they said, what's the true intent and purpose of them and in effect said that that was colourability. And so the idea of splitting them and making one bill apply to retroactivity and the other bill somehow applying to the future and particularly in the hope that you are going to negotiate in a favourable position from the industry as a result, I say flies in the very face of what you say you are trying to do by these amendments.

Accordingly I am saying, Mr. Chairman, that to accept this amendment, for example, the amendment to Section 11, as the Leader of the Liberal party says we should accept on black and white, to put it down on black and white, would be doing the very thing

which he argues he is trying to save the people of the province of Saskatchewan from doing, namely, saving the people the possibility that this bill is going to be challenged unconstitutionally in the future. In fact, in fairness, the Leader of the Liberal Party said to me in the course of his remarks that he recognized the fact that that argument I would be rebutting him with right now was an argument which would be a fair point. Well I say to the Leader of the Liberal party it would be more than a fair point if there is anything that wanted to guarantee the defeat of the bill in the law courts it would be to do what he recommends with respect to Section 11 or amendment number 4 with respect to his proposition.

Now, Mr. Chairman, I don't want to spend much time going around the hoops on the business of 'Blakeneyism' and 'billion dollar blunderisms' and 'we told you back in 1973' and this bill was constitutional and all of that but I do think since the Leader of the Liberal Party started off his remarks that way it is incumbent upon me at least to make one or two remarks in rebuttal on that point.

I simply say to the members of the Assembly, Mr. Chairman, I invite the members of the press because I realize that there may be political posturing going on here and members of the House won't be of a mind to read, I invite the members of the press or anybody of the public to pick up this volume of the Debates and Proceedings that I have here in front of me, Part 1, Volume 14, 1973-74, the official report . . .

Mr. Chairman: — Order, please! I would like to remind the members of this Assembly that at present we are dealing with this motion and once we dispose of this motion then we are quite in order to go back into Section 1 and deal with the other portions of it but I would like to dispose of the motion and curtail our remarks to it as close as possible.

Mr. Romanow: — Thank you very much, Mr. Chairman. I intend to do that because the very thrust of this motion, the end result of the members' remarks which culminated in this motion was: — we warned you about the unconstitutionality of the bill and we were proven right. We are warning you now and we are asking now through this amendment what your proposition is. I am saying in rebuttal to that, Mr. Chairman, that it is untrue. They did not warn the House. I am saying that it is untrue. I am saying on page 482, Ken McLeod said this — I want you to put it in proper perspective and in balance with what you say. Ken McLeod said this:

What is really happening is this: The Minister of Mineral Resources says they are putting on a 100 per cent tax. He is not pretending that he is entitled to do this because of the British North America Act. He has rightly said that the federal government has the right to deal with trade and commerce. He has rightly said the province of Saskatchewan has the right to deal with mineral resources, all its natural resources. But what the province of Saskatchewan is attempting to do is to take away from the Dominion of Canada its rightful powers in trade and commerce by means of a trick. The province of Saskatchewan is saying that, although the federal government does have for the benefit of all Canada the right to regulate trade and commerce on the pretence of regulating natural resources, the province of Saskatchewan will take away a federal right which the Dominion of Canada has.

That's the quote that the Liberals hang their entire hat on. He said that. I acknowledge he said that. That's all he said, Mr. Chairman, and that's all that any — he smiles — that's all he says out of a speech which runs into about ten pages. I say that is the only

comment that the Liberal Party made at all about the constitutionality of the bill in 1973, at any time. The simple fact of the matter is, Mr. Chairman, that they seized on this paragraph as a means of trying to justify the political position they are in right now. If you look at the Leader of the Liberal Party at the time and look at every one of them, including the present Leader of the Liberal Party, you find not a word about the unconstitutionality of the situation. Not a word, except this one paragraph. I have read it all, I have read it all! That's the critic. Then he goes on to talk about the whole business of the 100 per cent is confiscatory, and so forth. I say, Mr. Chairman, that even if we were to provide them with legal opinions, even if we were to provide them with constitutional opinions as they request, clearly it wouldn't matter, clearly it wouldn't matter. Because it didn't matter in 1973, Mr. Chairman, and it wouldn't matter now. I say, Mr. Chairman, accordingly the members of the House should reject this motion.

Mr. Malone: — The Attorney General invited me to reply to his comments about the legal opinions. I am not closing debate by standing up now, am I, Mr. Chairman?

Mr. Chairman: — No.

Mr. Malone: — I'll tell you, Mr. Attorney General, why we want the legal opinions. We relied on your advice on Bill 42 and it was wrong! That's why we want the legal opinions now because we don't rely on your advice any more. As the Attorney General of this province you are supposed to be in a position to advise us as to whether a bill is constitutional or not constitutional. You say this one is. You said the same thing in 1973. You were wrong then and we think you're probably wrong now. Obviously you yourself must have some doubts as to the validity of this bill because you went outside the province and got the opinions. Obviously your government hasn't got the complete faith in this bill that you suggest you have because you went outside the jurisdiction of your department — I understand from the Premier, outside of the province and went elsewhere to get legal opinions, not before the bill was drafted, after it was drafted. After it came down in this legislature! Therefore, Mr. Attorney General, if you have some doubts as to the validity of the bill, if the Premier has some doubts as to the validity of the bill and to resolve those doubts you go outside your department, outside the province for independent legal advice, obviously we're interested in seeing it. That's why we want to see those opinions: (1) we can't rely on your opinion because of past experience and (2) you or your Premier must have felt that you had to go elsewhere for the opinions to make sure the bill was right. That's why we want to see them.

Mr. Romanow: — Mr. Chairman, I just want to reply to this. First of all (I know it makes a great speech perhaps . . . I don't think it makes such a great speech because I guess I'm personally involved) it doesn't matter a bit whether you rely on the legal opinions or not. It just doesn't, because I'm responsible for that legal opinion, by your own words, by my own words, by the argument I was trying to advance at the very beginning. If I'm responsible for the opinions, if I'm responsible for the bill, then it doesn't matter what the opinions are. I'm responsible! Now that's a simple situation.

The second thing is, it has nothing to do with the doubts. Clearly the situation which came about as a result of Bill 42, in my judgement, trail blazed new constitutional law areas. You've written speeches on that. Premier Lougheed said so last night on national television. He said CIGOL seemed to take away from provincial rights and give it to the federal government. I think that anybody who looks at it objectively will say that whether it's right or wrong, that is a new trail blazing on the trade and commerce power and on some aspects of indirect versus direct taxation aspect. Why wouldn't we as a consequence of Bill 42, as a matter of regular course, say we're going to get the best constitutional advice that we can inside the province or outside the province. Why wouldn't we? It's not because we have any doubts. Maybe there will be some doubts as

a result of the new philosophical thinking, legal philosophical thinking, which the CIGOL decision appears to have exhibited on the part of the Supreme Court. I don't know. But leaving that general kind of vagueness away from the consideration, it would be the only prudent thing to do. Furthermore, if we came into this House and said to you, no we didn't take any outside legal advice, the next thing you would say is, well, you only relied on your internal advice last time round and look where it got you. Why didn't you hire some outside advice? That's what the member for Regina South asked, that written question, last session. I gave him the answer this session. He wanted to know who helped draft Bill 42, I know what the answer is, but it amounts essentially to inside, in-house counsel. It was an obvious and a natural thing and the right thing to do for an Attorney General to say, OK, look, we want to see Bill 47, we think it is constitutional, our in-house people think it is constitutional, let's give some outside guys a second look at it, see what they think about it. They think it is constitutional. On the totality of the opinions that are before me, I have to take the responsibility of making the motion of the bill, which I have done. I think that puts an end to the issue. I take the responsibility, obviously. Even if I shirk the responsibility you won't let me escape from it. You are doing it politically now and you will do it if something should happen to Bill 47. This is pure political fluff. It is pure political window dressing to try to take on the opinion, seize on the opinion and use it to your particular advantage. In any event, leaving that aside, even if I am too harsh in ascribing to you people these kinds of political motivations, I think the member for Regina South (I appeal to him as one who has some indirect dealings with Parliament) would agree with me that in the federal House of Commons and in other legislative parliamentary galleries it would be the wrong way to go for a responsible minister to give the tabling of internal documentation under these kinds of circumstances. That's the simple position I'm taking.

Mr. Malone: — Just one comment, Mr. Chairman. The Attorney General in his remarks said that the Liberals want to use these opinions for political purposes and that we want to take them and twist them and distort them, presumably to our own ends. I suggest to the Attorney General that's exactly what the Premier did. The Premier in his press conference announces to the press, to the media, we have these opinions. They are from outside the province. Somehow that makes them better. I could never quite see that thinking, but we have these opinions from outside the province. These opinions say that Bill 47 is constitutional. Now if he is not using those opinions for political purposes, I am not quite sure how he is using them. So what I am saying to the Attorney General, once again, if you have these opinions, if they confirm your advice to this House, what's wrong with showing the opinions to us? And I say to you, once again, put up or shut up.

Mr. S.J. Cameron (Regina South): — Mr. Chairman, just a few remarks to the motion before the House. The Attorney General now, on more than one occasion, has sought to suggest that he, in fact, and his government didn't have a clear warning from this side of the House — by my predecessors as a matter of fact and by others, with respect to the constitutional aspects of Bill 42. And I say to you that you did in fact have that warning clearly. Ken McLeod's comments in that respect showed that he, himself, was clearly concerned about the constitutional aspects of the bill and he put his finger on one of the difficulties that ultimately proved to be the case with Bill 42. More than that, the Minister of Justice of Canada, was at the same time telling you that the bill was unconstitutional. He didn't waffle at all with respect to his assessment with regard to Bill 42. He said simply and quickly that the bill was unconstitutional and that was as a result of opinions that he had got from the federal Department of Justice. Well, the Attorney General always doubts that. Let me read to you an excerpt from Hansard in that respect, I'll give you the date. It was January 7, 1974 and it was a speech by Mr.

Gleave, Alf Gleave, one of your own members. Yes, I am sure you do know him well. And he was referring to an article he had clipped, a Canadian Press article that appeared in the Ottawa Journal carrying comments of the Minister of Justice with respect to the Saskatchewan legislation. Here's what he said and I'm quoting from page 9105. This is Mr. Gleave talking:

The Ottawa Journal for Friday, December 28th contains an article in which the following statement is to be found:

'Justice Minister Otto Lang declared Thursday that Alberta and Saskatchewan oil marketing legislation is ultra vires.'

Quote from page 9106 from Hansard, this is Mr. Gleave again speaking, quoting from press articles that appeared across the country and again I quote to you from Alf Gleave, he said:

I should like to quote again from the same issue of the Ottawa Journal quote; (he's quoting Justice Minister Otto Lang, quote):

'If there is conflict, the Justice minister added, there is no question that provincial legislation will fail.'

That was the position that the Government of Canada had taken as expressed by the Minister of Justice not only was that a private position of the government, it was a public position of the Government of Canada and the House of Commons, it appeared in the press across the country. It was the opinion of the Government of Canada that Bill 42 was unconstitutional. Now, what does that say? What it says is that you did have clear warnings, the red lights were on when you were dealing with Bill 42. You had warnings not in respect of the technical legal aspects of the bill and the constitutional difficulties, you had clear warnings on other fronts as well and you knew, or ought to have known, that the industry was going to challenge the bill which it did in May, having passed in January, and that the Government of Canada with its opinion that you were exceeding your powers and transgressing on theirs were going to join in that constitutional question as it had to do. Those were the warnings that were before you then. You had to make a decision. Now, rightly or wrongly you chose to follow your own course and pass and proclaim Bill 42 and begin to tax under it and to collect the taxes. Rightly or wrongly you did it, but let's not debate the issue of whether or not you had warnings and in that respect because you had them. You had them in the most clear terms. That is, that it was going to be challenged, that other people including the Government of Canada, the Department of Justice thought it unconstitutional, that the Liberal caucus indicated that it had suspicions about the constitutional validity of it and indeed, Alf Gleave and I from quoted to you his speech in the House of Commons. He was aware of the position. What does all that say? It merely says that you took your course on your advice. What has history shown? It has shown that your course was wrong. Do you bear the responsibility for it? Yes, you do. You have to bear the ultimate responsibility. Your Premier bears the ultimate responsibility, you bear the primary responsibility. It was an error that you know, of a magnitude that I don't know whether the province has ever seen. If you can tell me or give the House another circumstance where we're dealing with \$500 million and that's an error of that magnitude, then give it to us. But I think that was the single largest error that has been made in the administration of the government of Saskatchewan. Now, do you wonder why in those circumstances we are concerned about seeing what evidence you had to

support your contention that Bill 47 is without constitutional difficulties?

Added to that are these considerations; and let's review them. You put yourself, for the time being over here. We don't have the resources at our command that you do with respect to the legal aspects of this bill, but we have sought opinions where we can get them. Some of us have considered it in detail as well and some of us had some experience with respect to constitutional issues. It is our view that this bill has clearly got some troublesome aspects to it constitutionally. It is not clearly constitutionally sound. It is an area by your own admission is uncertain. It's an area that is causing all of us some difficulty. Now, your own Premier has indicated on a couple of occasions that he has sought in the course of the last couple of years, in first ministers' conferences with respect to the constitution, amendments, that would give to the provinces the clear right to tax resource revenues. So he has, therefore, shown his concern about the extent of the province's powers to tax resource revenue. Otherwise I ask you the simple question, why would he be so concerned about getting an amendment to the constitution? Now, a year or so ago he indicated to the House the other day that he drew the agreement of all ten premiers to a specific and simple amendment to the constitution which would give to the provinces the power provincially to tax directly and indirectly in respect to resource revenue. Again, what's the significance of that? What's the value of that? If you're so certain you have this power, why are you continuing to seek these amendments? It's not a simple process to get the amendment of ten premier as you know. That was a difficult process. I give you some credit as a matter of fact for having got the agreement of the ten premiers. He is very concerned to get the constitution amended. That is a major matter to get the constitution amended. It's a major thing to go to the ten premiers and draw their agreement to do it. Why do you go to all that difficulty and all that trouble to get some constitutional amendment agreed, if in fact you had the power you say you have? That's point number two which gives us some concern . . . if there were no others.

Point number three is that you know better no doubt at this stage than anyone here because you've had a chance to look at it in more detail than us. That if a province proposes a taxing regime which ultimately is struck down by the Supreme Court of Canada as being beyond provincial powers, you then have difficulty retaining the money you've collected. For the simple reason as you've discovered in the AMAX case that you can't readily do indirectly what you first failed to do directly. And I refer you and your people to the difficulty you encountered in AMAX. You will recall that situation, surely, I don't have to describe that one to you. It was found there, that insofar as your proceedings against the Crown Act applied to deny the return of the taxes collected under unconstitutional law, it would be unconstitutional. It doesn't take very much extension to extend that to the situation of Bill 47, insofar as it attempts retroactively to retrieve the money collected under Bill 42. The colourability aspect and argument is what I'm making. I don't say to you that I have certainty about that question, but I say to you that there is enough there to be very concerned about the constitutional aspect of the retroactive provisions of the bill. Now there is another area, as well, and there is a third point. You know that taxing resource revenue in the way in which you are doing here, and I'm talking now about the future period, the income tax bill as it will apply in the future, quite apart from the difficulties you get into with respect to its retroactive features, is you have problems with respect to the tax in the future on the constitutional front. You know that as well. It has to be a direct tax. It cannot be an indirect tax. And I was by quick aside, I was somewhat amazed the other day that the Premier indicated that the level of tax would have no bearing on that constitutional question and I think you would have to agree with me that it clearly does, if you look at the precedence and I refer to the Ontario mining case, in particular. The level of tax and when they begin to apply and what's exempt by the way of income has a very direct bearing on whether the

tax tends to be an indirect tax or is a direct tax, but that little aside, back to my point is that again, but by sort of a common sense process, if you were so certain that this tax for the future is constitutional, let me ask you why we didn't adopt that course for Bill 42, because you had the option at that stage in 1973 of going the Bill 47 route or going the Bill 42 route. You chose the Bill 42 route. You said it was constitutionally valid, you had all kinds of warnings that it wasn't. The warnings, surely, ought to have made you consider the Bill 47 route, and in fact, you did consider the Bill 47 route then. And you considered the same route that, a similar route that Alberta took. Those were options open to you that you considered. Now I ask you why, if Bill 47 is such a sound course and so certain to be constitutionally sound, why didn't you follow that course in 1973 with Bill 42?

All the arguments I'm making here are merely to demonstrate one simple proposition, that this bill is not clearly within the powers of the province. This bill has difficulties with respect to its retroactive application in view of the CIGOL decision and it may have problems with respect to the future quite apart from its retroactive provisions. The major in fact, in my view, the only real major problem with this legislation is its constitutional aspect. We can argue about the levels of tax, the policy as it applies to the industry. Those are separate questions. Those questions, in my view, are not so important or so fundamentally important, it's whether or not this bill is constitutional. Now, given the amounts of money involved as to the past, and given the amounts of money involved as to the future I can't think that there could be a more important question come before this legislature more important than the one inherent in this bill as to whether or not it's constitutionally valid. It's vital to our health financially with respect to the past and it's absolutely vital with the respect to the future. Tell us in the course of remarks more widely on the bill how you propose to avoid the difficulty of four years from now us facing the same dilemma we're into today when the bill is a billion dollars or another \$500 million that we jeopardize. That is the end has to be the crux to what we're trying to do here to be certain that what we do is sound. We all argue a little about the levels of taxation and what's too much and what's too little and what's leaving the industry too much or what more should be taken from the industry and so on. Those questions are good questions and serious ones but they sort of fade into the woodwork compared to the fundamental question here as whether or not this bill is sound constitutionally. Now, insofar as you're drawing internally from your department advice with respect to this bill, I don't expect you to table that. As a matter of fact, I wouldn't expect you to table that ministerial responsibility you have to take responsibility for. But when you draw outside opinions, which again, by the way, demonstrates, as the leader of the Liberal caucus has indicated, your own concern, because you're drawing advice from outside and presumably from outside the province and I commend you for doing it incidentally, but it shows again some real concerns of your own about the validity of this bill. When you're drawing advice in that way from outside the province with respect to a question which is so fundamentally important, of such magnitude, then I think that you ought to, in fact, table those opinions.

Now let's look at those opinions. If, in fact, they bear out your own assurance about the bill being valid what have you got to be concerned about? Bear in mind we haven't yet made any decision on this bill. We have to make a decision, all members do, on whether they are going to vote for the bill. Theoretically, you assure them the bill is sound, they're saying to you but this is such a large question and in view of the sort of history of the past we want something more by way of assurance, and if you have an opinion backing up your assurance, isn't it in your own interest to file it and let us see it? How are we more going to make political hay out of an opinion that supports your position and apparently doesn't support ours? Let me ask you that. Let me ask you secondly how you

justify not giving to the members of the House an opinion from outside sources on the argument, as you made it, that members of the opposition would want to make political hay out of it. Therefore, you're not going to give it. Well, that's what you said. Every time we rise in question period and we ask a question you're under some obligation to give us the answer even though we may, to use your expression, make some political hay out of it. Every time we put a question on the Order paper seeking information the same rule applies. If there's information embarrassing to the government sure there's going to be political hay made out of it. If it supports the government, you people will make the political hay. That's part of the process. But you can't deny the House information, especially vital information on the argument that if we give it members opposite may make something politically out of it. So the arguments you've advanced, seems to me, are rather thin and I'm rather surprised that some of your own members, some of your very strong members that are in the back benches, haven't asked of you some sort of clear black and white opinions with respect to this question. They're going to look pretty bad if they support a bill of this kind without asking those kinds of detailed difficult questions and then drawing from you some black and white assurances backed up by the opinions that you've got because it's a major, major question they're faced with.

Now, let me turn to one other aspect just quickly and then maybe, Mr. Chairman, I will reserve this, the Attorney General commented on Section 11 in the amendments proposed by the Leader of the Liberal party. Well, I want only to make this response and I'll come back to it in more length later. You said, and it touches on the question, because legal opinions are germane, you said that Section 11, the amendment as proposed by the leader of the Liberal caucus, would add to the colourability argument, yes, well, I admit it as well, when I suggested to you first that we ought to be splitting these bills you suggested to me at the time that that too would add to the colourability argument. Exactly now what does that show? It shows that you have concern about the colourable aspect of this legislation. Well, why do you say it would add to the colourability? You only add to something if something already exists. Certainly your position throughout has been in respect to this early suggestion we made about splitting the bill is that it would add to the colourability. That's your argument. Now if in fact splitting the bill into two and setting aside the retroactive provisions of the bill would tend to make that one more colourable, it already implies that it is colourable in part, and if it's colourable, that colourability spreads across the whole of the bill because you can't sever the retroactive side of the bill from the future application of the bill. If it enhanced the colourability by separating out the retroactive provisions it would enhance the colourability of the retroactive section — that's what you said. If you don't separate it out that colourability is left in respect of the whole bill. In other words, if the bill now is a bit ink, what you are saying is if you separate out the retroactive portion of it you remove the pinkness from the future portion, but what you do is you add a little red dye and darken the pinkness. You see, that's what you're saying. Again, all of which shows by clear logic that you understand that you have got problems with respect to the constitutionality of this bill. Your Premier understands that or he wouldn't be seeking the amendments; he wouldn't be seeking the outside legal opinions that you've got, and you know — anyone does who looks at the law knows that there are problems here; serious problems that we have got to overcome. In those circumstances and given the magnitude of the question, I would think that you would want to give to the members of the Assembly, those outside legal opinions that you have drawn, and I hope they have come from the best constitutional lawyers in the country. And for those reasons, Mr. Chairman, I support the resolution of the motion, and I urge other members including members opposite, to give some serious thought to this.

Mr. W.C. Thatcher (Thunder Creek): — Mr. Chairman . . .

An Hon. Member: — Welcome back.

Mr. Thatcher: — Thank you very much. I am sure that I missed you considerably, about equally as much as you missed me.

Mr. Chairman, listening to this debate of Bill 47 on the committee, and I regret that the vote on second reading came while I was on my extended vacation, but on Monday, Mr. Speaker or Mr. Chairman, I happened to hear a program in Regina known as the 'Shragge Line', and there was a very interesting individual who was talking at that particular moment (from time to time this individual does come out with some very profound comments). It was Morris Shumiatcher who has some prominence or notoriety depending on where you sit in this Assembly. He received a call that particular morning from someone who was pretty irate on lawyers generally, and of course the purpose of this caller was to lash him for being a lawyer. He said, 'Mr. Shumiatcher, there are too many lawyers, there are too many lawyers like you,' etc., etc. 'we just don't need as many lawyers as we have,' and he cast some very strong aspersions on the legal profession. Mr. Shumiatcher's answer I thought was quite profound. It went something to the effect that, 'yes, I agree with you, we have far too many lawyers and we have far too many lawyers because we have far too many legislators who to justify their own existence must continue to pass law after law after law, so consequently you need lawyer after lawyer to interpret them.' Mr. Chairman, I think that was a comment very well taken; I don't know how much sincerity was in that comment but I think what we are saying in this Bill 47 and what we are perhaps saying in this legislature right now, does give a great deal of credibility to Mr. Shumiatcher's comments. Frankly, I'm getting a little bored with listening to this, and I'm sure what is going to intensify, this legal jingle going back and forth.

Well, to the member for Wascana, I don't have the opportunity to look forward to moving on to the major leagues as he is planning to do so perhaps he could bear with me for a period of time. And I'm not planning to use this Assembly as a platform or a sounding board for the local press to pick up. Perhaps it is for the reason that Cliff McIsaac felt obligated to take the action that he took, the moment he made a similar decision.

However, if I may return to the subject of Bill 47, Mr. Chairman, I apologize for my digressing, I very seldom do that. Mr. . . . well, as a matter of fact, you just solidified that before Christmas. It is just no problem whatsoever.

Mr. Chairman, if we could have some semblance of order here.

Mr. Attorney General, there is . . . I don't know whether Bill 47 is constitutional or not and I wouldn't even attempt to hazard a guess. I note that going back to a brief that was presented to you by the oil industry in 1973, the oil industry in this brief, and I'm sure you have got it — the oil industry told you in this brief that this Bill 42 would be unconstitutional; they virtually told you that they were going to be forced to challenge it. Now I don't know what Ken McLeod said, or Judge McLeod, the now Judge McLeod said. That's a question of semantics, but the oil industry suggested to you in that brief of December 15 that Bill 42 could . . . December 15. You must have a copy of it, Mr. Attorney General. If you haven't I will get you a copy. But they in effect told you that this

business was — that they would almost have to challenge it. Of course you knew that, and that is was probably going to be unconstitutional. Now that really doesn't matter. I think in that bill they suggested that you had drawn this legislation up too quickly, too hastily, and one of my questions to the Attorney General right now is, in your opinion, in retrospect, looking back in 1973 you were a relatively new Attorney General; you had had what, probably a year, 18 months in that position and I'm sure any Cabinet post, any of the senior Cabinet posts no one, no matter how intelligent he may be, just g rasps it like that. It just doesn't happen.

I would like to ask you if you feel that perhaps you didn't get all of the opinions that were necessary, legal opinions? And I ask that question, thinking back to the potash expropriation legislation, and that was Bill 1 or Bill 2, but that was a very skillfully written bill. I recall during the filibuster, potash filibuster at that time, the legal people that we were talking to commented several times to me anyway, how skillfully written this potash expropriation legislation was. I think the one that they held in the most awe was Section 45 if I am recalling the numbers correctly.

Upon questioning, the Attorney General did admit that this legislation was basically written by the law firm of Davies, Ward and Beck, and specifically one Howard Beck. As you drafted Bill 47 you have indicated that you have sought, at least I assume you have indicated, I didn't hear you because I was on vacation but I guess you have indicated that you sought out of province legal opinions. I would, therefore, Mr. Attorney General, like to ask you if you or your department did consult the law firm of Davies, Ward and Beck in Toronto. I don't ask you this derogatorily because when you're writing something that is pretty dicey I'm completely concurrent with the concept of going to the best that's available, but did you go to them and does Bill 47 contain any of their authorship? Did Howard Beck's pen in essence go to work for you? I've asked you several little questions there, Mr. Attorney General. I'll sit down and listen to you up to this point and I may have something else.

Mr. Romanow: — Mr. Chairman, I'd like to deal with both members if I can. First of all speaking to the question from the member for Thunder Creek, the answer is yes, we did have the benefit of the legal opinion of the law firm of Davies, Ward and Beck with respect to Bill 47.

With respect to the comments made by the member for Regina South, I would only say that dealing with particularly the amendment that's before us I don't know if much can be gained in prolonging the debate of whether we were warned or not. I say to the member that the quotation of the speech by Mr. Alf Gleave in which Mr. Gleave purports the quote, I don't know what he is quoting, presumably newspaper reports of Mr. Lang. I don't take that as notice, I believe that newspaper statements that are made are not the kinds of official notices that you would expect . . . (interjection) . . . No, no, I'm making the point that there's been not one letter from the Minister of Justice at any time, not one letter. Do you think this is fair warning? Oh no, he wouldn't sit down and write us but we're expected to star every newspaper and read what he might say in the newspaper to say it's unconstitutional and even at that his argument is he cites the Alberta — Saskatchewan legislation as marketing legislation — totally having misconceived what Bill 42 is all about. The very quotation you have from page 1905 — if you would care to ship over the book to me, the House of Commons Hansard which I couldn't get because you have it. I'll read back the exact quotation of Mr. Lang as is reported in the newspaper and you're expecting that our government is to rely on that. I say to you no. You say I have a weak argument, I say if you think that that is warning then the weak argument really falls on the shoulders of the Liberal Party.

Secondly, the business of direct versus indirect taxation — why did we seek for indirect taxation and constitutional amendment? We said this many times apart from the fact that it can be from time to time the subject of legal challenge and one which is somewhat difficult to determine in legal terms and the need to try and get as much precision and clarification as necessary in it. There is also the fact that the provinces that have the constitutional right to control resources believe that and the indirect taxation definition we would here clarify and make certain that which we believe is our constitutional right, mainly to manage the resource in addition to the ownership and the returns from the resource.

You ask us thirdly, why did we not go Bill 47 back in 1973? I said to the press on a number of occasions and I repeat again, Bill 47 in a sense is not our preferred route. Bill 47 is in income tax. It does not have the kind of flexibility that a royalty taxation bill would have. A royalty bill does allow flexibility and you can adjust your royalties depending upon the kinds of resource management policies you have in play. We do have flexibility in this bill all right, Bill 47, I think to do some aspects of resource management but the traditional and the ideal way would be to go by way of royalty or royalty surcharge as we purported to do at the time of Bill 42. It had nothing to do with the constitutional weight of the respective bills at that particular moment.

Finally I say to the member for Regina South, not that this would change my opinion any but to play lawyer for a moment, you say that you'd be content with just getting copies of the outside legal opinions. Well the amendment that's before us says all legal opinions are received by the government. It does not say only outside opinions and I don't think it changes the principle or the points of my argument in any way. I might just as well say, show me your opinions internal and external and say the bill is unconstitutional. I would then be able to judge the weight to which I should attach the remarks and the comments that you make on the bill. I'm to take the criticisms seriously and they're offered you say in a non-political way but in a purely legal fashion. Table your opinions, you obviously wouldn't and I know why you wouldn't do it. I think to much the same extent that you take the responsibility for your remarks, for your comments and for your opinions, I as a minister take the responsibility for my bills and my comments and my statements. All I can tell you is that we have consulted outside counsel and I'm satisfied as Attorney General that Bill 47 is constitutional.

Just before I say one other thing I must clear up lest there is anything made of it my remarks about adding to colourability. I said somehow that Section 11 amendment that the Leader of the Liberal Party proposes would add to colourability and somebody seized on that and said, you must think that it is colourable and this will only add to it. Now that is a misrepresentation of the statement. What I am saying is that the Liberal Party says the bill is colourable. You say you are amending the bill to correct that, you do so in Section 11. I say that you failed in your purpose by adding to the colourability that you said in the very beginning the bill had. I'm moving on Section 11, I say Section 11 is unnecessary, the proposed amendment of Section 11. Indeed I say to wrap this up if I was to move Section 11 that would make the bill colourable, something which I don't think the bill now is subject to attack on.

Mr. Thatcher: — Mr. Attorney General, you didn't answer my initial question when I asked you, in your mind at this point in time, whether you would consider the original Bill 42 which your department authored back in 1973, whether you would consider that perhaps not up to the calibre of the legislation that is being written today. Would you care to answer that before you go on?

Mr. Romanow: — Well I believe that the draftsmanship and the concept, the legal concept of Bill 42 at the time — if I did not know the CIGOL decision now I would still say it was an excellent and constitutionally valid piece of draftsmanship. That clearly can't stand now in face of the CIGOL decision by the Supreme Court. All I'm saying is that known and given the law as we understood it, as the provinces understood it, Bill 42 was prior to CIGOL totally constitutional. I need not repeat my arguments again that every judge up to the Supreme Court of Canada supported that proposition and indeed two of the judges of the Supreme Court of Canada themselves did. That is only lending weight to the fact that the Attorneys General of Alberta, Manitoba, Quebec all came in with a Supreme Court level and said, yes, Bill 42 is proper draftsmanship, yes, it is constitutional. I don't know what more we could have done or I could have done at the time, not having been armed with the CIGOL decision as I now am that to have said that Bill 42 would have been more constitutional but obviously we look at the world the way it is today.

Mr. Thatcher: — Mr. Attorney General, are you telling this Assembly that in 1973, of course I wasn't here to ask this sort of question in committee, but did you seek the same sort of, the same calibre of outside legal advice at the time of the original Bill 42 as what you now presently seek when you are writing important legislation?

Mr. Romanow: — I believe, I am going from memory, but the answer is, no, we did not seek outside counsel, this was all in-house counsel, if I can describe it that way in Bill 42. I think the answer has been tabled in a written return which asked me or asked the government a few months ago.

Mr. Thatcher: — Mr. Attorney General, you conceded that you spoke to the law firm of Davies, Ward and Beck. Did Davies, Ward and Beck specifically offer any clause, any passage or did they specifically offer anything that is in this present Bill 47 and, if so, what?

Mr. Romanow: — Mr. Chairman, this question I think and I don't mean this in an derogatory sense, but it reveals perhaps a lack of understanding as to how most pieces of legislation are drafted. Most pieces of legislation are not drafted by one man or one firm, even four or five perhaps of the firm. What happens in this legislation and what happened in the other legislation, there were drafts, I don't know from whence they come in the first place and I don't think it much matters, there are drafts, there are lawyers that look at drafts, there are amendments to sections, there are re-amendments pulling sections out, the sharpening of the wording and so forth. This is the kind of a case where you do have a committee writing the symphony.

Mr. Thatcher: — Mr. Attorney General, I guess my point in the whole thing is that you have indicated on this bill and the very last important piece of legislation, the potash expropriation bill, that you sought very extensive outside legal help. Now just looking at the Estimates, the budgetary Estimates that were tabled in this House last year, I note in your department, in your administrative were 39 people. Further down in civil law you've got another 27 people. Now I suppose they are not all lawyers. The numbers on these are pretty extensive. Now tell me what do you need, if you are going outside for your important legal opinions, what do you need all these people for? I am certainly, I think we are all familiar that the salaries in the Saskatchewan Civil Service have at the very least probably kept pace with civil service salaries in other parts of Canada so we know that they are not cheap. What do you need all these people for — when the crunch comes you've got to go outside and go back to the private — go down to

Toronto or Montreal or goodness knows where else you are going — if this is going to be your mode of procedure from now on, can we look for any cuts within your department like — we've got civil servants coming out our ears everywhere — but why do you need all these people, if you are getting outside advice?

Mr. Romanow: — Just to answer the member, I think it's a little bit from the amendment but I will let you make the decisions and perhaps you'll give me the courtesy of replying. You know I asked the same question when your father was the premier because I know at that time he had a man who turned out to be a very competent counsel called Mr. Robert Pierce. He was very, very closely involved . . . (Interjection) . . . Yes, he's done very well — closely involved in the drafting of certain contracts like Athabasca Forest Industries and legislation that was taped but was part of that Athabasca Forest operation. The answer that I got from your father I thought was a doggone good answer. "From time to time governments need outside people to look at independently not a second opinion look but, what governments are proposing to do." It's been done in a variety of cases, there is a question on the order paper every year that says, "What are your outside counsel fees?" I agree some of them are just the kind of ordinary aids to the Attorney General but the bill amounts to quite a lot of money, perhaps too much. It was done during 1964 to 1971, it was done before 1964, it was done post 1971 and it will be done whenever we get defeated by some other new administration as well. It's as simple as that, there's nothing Machiavellian about it.

Mr. E.F.A. Merchant (Regina Wascana): — I wonder if the Attorney General would quickly, before I make a couple of comments, would you be prepared to indicate the number of law firms that were involved outside of the province and the cost of preparing the opinions that were tendered to you by those law firms?

Mr. Romanow: — Mr. Chairman, the costs I am quite sure we don't have. I can't tell you approximately because I don't think there has been even a bill tendered to date. I think the member, being a lawyer, would know the reason for that. There may be, I don't know, but I certainly have no knowledge of that. I could make a check and see if there is a bill and perhaps give you an estimate in that regard. The number of law firms, the members asks. There was one law firm that looked at the bill, outside law, two law firms, I am sorry, going off the top of my head and several others.

Mr. Merchant: — They would have been retained no doubt when counsel came back from the hearing on CIGOL and said that it looked like you were up the flue. Is that correct?

Mr. Romanow: — I am not sure of the exact time of retaining.

Mr. Merchant: — Are you prepared to say that they have been retained, that they have been working on behalf of Saskatchewan people or however you characterize yourself when you employ people, for the past six months at least?

Mr. Romanow: — Yes, I think so.

Mr. Merchant: — Would I be fair in guessing that the two bills together would probably exceed, say \$100,000?

Mr. Romanow: — I would not agree with that. I have no reason to disagree with it

but I do not agree with it because I don't know.

Mr. Merchant: — Well, the Attorney General is kind enough to say, being a lawyer myself and I have some idea of the cost of specialists of that nature and I take it the Attorney General wouldn't disagree that the bill — you wouldn't be surprised if the total bill from these two firms was in the \$100,000 range or more?

Mr. Romanow: — It would surprise me in the sense that I, as a practising lawyer, never saw such bills but given the current fees that I am advised lawyers are charging, given magnitude of the case, given the fact that we have been urged by members on all sides of the House in this House to get the very best legal counsel, it would not surprise me to see a bill of that size.

Mr. Merchant: — I take it that the Public Service doesn't deal with the taxpayers' money with quite the gay abandonment that your Cabinet does and I assume that somebody sitting with you can indicate the rate that you are being charged by the principal in the main firm in Toronto and I wonder what was that rate, \$100 an hour, \$150 an hour, \$200 an hour?

Mr. Romanow: — I don't know what the rate is. I don't think anybody has it here.

Mr. Merchant: — You mean you just sort of gave a carte blanche to these people and said, don't hesitate to take six months to tell us how to get out of this pickle, and we'll pay your bill of course, when it arrives.

Mr. Romanow: — Well, of course the member wrongly characterizes this as a carte blanche. It is not a carte blanche. There are fees or rates upon which they're paid. I'm only telling the member I don't have those with me and neither do my people have them with me.

Mr. Merchant: — The Attorney General says, opinions tendered, that part of the reason that you will be inviting a brilliant crew with whom you sit to vote against this legislation is because it implies that in-house reports would have to be tendered and as all of us know that could mean every scrap of paper if you interpreted the motion in that way. What I suggest would be a fairer way to deal with the motion to assume that people working with the government are in fact a part of the government, not in the sense of the government of Cabinet but in the usual sense of government means all of the public servants. If you choose to nit pick, to try to say this is the reason we're not going to support the motion, would the Attorney General indicate whether if a different motion were proposed asking only for copies of the written report tendered by the two outside law firms that you would be prepared or not prepared to tender those reports?

Mr. Romanow: — No, I don't think I'd be prepared to tender them because I don't see where that makes that much of a difference to the principle. I said in-house, I don't think it much matters to my argument whether it's in-house or outside house. Also to be quite candid, you might not get all the information you want by limiting it to two law firms. It's a question of the principal here and I think the principle here is one of responsibility, ministerial responsibility and I take the responsibility for everyone around me for recommending to the members of the House that the bill in my judgement as it's before you now is constitutional.

Mr. Merchant: — Are you saying that we might not get everything we want by limiting it to two law firms? Are there more than two law firms? Were more than two law firms

retained in connection with Bill 47?

Mr. Romanow: — Only two law firms were involved.

Mr. Merchant: — Mr. Chairman, what does the Attorney General really say in what I thought would pass quickly and with respect I suggest was not the strongest argument I've heard you mount from time to time . . . well, I expected a better argument than you presented. The Attorney General says, no, we're not going to tender this information. We're not holding back this information because it will embarrass us politically. Well, as my colleague from Regina South says, we'll give you the opinions if you can understand the handwriting of some of the lawyers in our caucus. The Attorney General says, well, I take ministerial responsibility. No question. You deserve all of the trouble you're in for taking all of the ministerial responsibility that you deserve. The Attorney General says, I take ministerial responsibility and therefore the rest of you don't have to see the reports. Well that, Mr. Chairman, really says that the member for Pelly, the member for Rosemont, the member for Wascana, the member for Regina South, all of us who aren't . . . indeed for these purposes the member for Regina North East, he needn't be in this House. All he has to do is just leave a little note after every election saying, well, we go along with the government or we don't. Mr. Speaker could just flash the cards whenever a vote came up. It really says that the member for Rosemont has no right to draw any decision about whether Bill 47 is constitutional or not. He says his interpretation of ministerial responsibility would be that all the member for Rosemont can do is say when he runs whether he's going to support the government, holus-bolus or not, that his opinion until such time as he goes into the Cabinet . . . if he goes into the Cabinet, that his opinion is worthless, that his 10,000 people that he represents from this province, they're not entitled to any independence of thought, that all he is entitled to do is vote as an NDP because an Attorney General whose track record on interpreting reports and drafting legislation is pretty questionable because the Attorney General says, well, you have to accept my word for it; I take ministerial responsibility.

If the hon. Attorney General's interpretation of ministerial responsibility were accurate the whole process of legislation and legislative discussion would be a mockery. There would be no need for an opposition but there wouldn't even be a need for government backbenchers because according to the Attorney General none of us is entitled to an opportunity to consider opinions that have been prepared. I suggested a cost of probably at least \$100,000 prepared out of public funds and opinions which I suggest we should have an opportunity to look at. Mr. Chairman, I suggest to you and to other members that when the government votes down this motion, which I suppose they'll do in the next few minutes, that one clear interpretation should be drawn by the public, and that is for some reason the Attorney General and others fear the nature of those legal reports. They fear to put those reports on the table and allow members to decide whether that will affect their vote to allow people in the public to decide whether they have confidence in the direction in which this government is taking us as they rock from one rather serious error to another.

Mr. Romanow: — Mr. Chairman, I just must make one final point on this . . . or at least that's a final point from my point of view and I want to speak on it. The member argues that he and other members of the Assembly should have constitutional opinions and you can extend that; other opinions, internal or external, a very small difference, if any, on the principle, in order to do their jobs better, in order to make sure the direction of the legislation, the government policies is in the right way. I ask, Mr. Chairman, for the members of the House to cast their minds back to say, 1975 when the member for Wascana was first elected to this Assembly, to cast back in the myriad of legislation that

we have dealt with in this House where not one Liberal or PC MLA has asked for a legal opinion on the constitutionality of legislation where it could be an issue. He didn't ask at all in potash, and putting that, even apart from that, I'll give you another one. You're very interested in this . . . Community cable casters Act . . . CPN; they're your friends. You didn't ask one question about constitutionality, in fact the member for Regina South, and I don't say this in any facetious way, made an excellent speech about the constitutional confrontation route that the Blakeney government's involved is an ordinary matter of politics. All right, maybe on potash you did, but look back at all the other things which are of equal importance. Now why would I say it, Mr. Chairman? I say it for one reason only. The request for a constitutional legal opinion on this case is a selective request not designed or motivated, as the hon. member for Wascana would have us believe, out of some desire doing a good job as MLA, knowing the direction, because if he did, he would have been asking for it for equally other important social and economic thrusts of which there are significant constitutional implications and he did not and their caucus does not. And I say, that supports my argument that the legal opinion tendered, so tendered, even if I could accede to the principle of it, would be only used for one purpose, highly selective political partisan analysis and to support the points made by the Liberal caucus with respect to this bill.

Mr. Merchant: — Mr. Chairman, I guarantee to the Attorney General you will find that we asked for reports. In that case, the potash debate, we were asking for feasibility studies, values for . . .

Mr. Romanow: — Constitutionality?

Mr. Merchant: — No, of course not because there was no question in our mind but that you had the right to expropriate if you chose to expropriate. To deal with the red herring drawn now by the Attorney General to cover the fact that he doesn't for whatever reason he doesn't want these reports to reach the light of day. He's saying that to be consistent we would have to get up and ask for the constitutionality of every piece of legislation. You only ask for the reports and the studies in the areas where those reports and studies are in question. In the potash debate we asked for the reports and studies on value because we weren't satisfied that the government was putting the best interest of the Saskatchewan taxpayer forth in interpreting those reports and studies in the way that they were. The government again said no, we're not going to give you those reports and studies and again, I think, people drew the proper inference that you were afraid of what those reports would say.

In this area, you have a party satisfied that the legislation is unconstitutional, you have much of the oil industry satisfied that the legislation is unconstitutional, you've been told by members of the oil industry that they believe that the legislation is unconstitutional and yet you're not prepared to disclose that very important area to members of the House. A party that represents, when we were elected we represented some 150,000 voters and we represent 130,000 now. I'm prepared to concede that the members that decided for whatever reason that Wayne Mantyka might give for leaving our party . . . (interjection) . . .

Mr. Chairman: — Order. You better get back to the motion here.

Mr. Merchant: — Well, of course, as the Attorney General well knows there'll have to be a Minister of Agriculture in charge of lawns and gardens in the city and a Minister of Agriculture for cattle. I say only, Mr. Chairman, that with respect it's a very specious argument for the minister to say that we would have had to have asked about the

constitutionality of every bill that's ever come along. We've dealt with the various pieces of legislation and asked for the kinds of reports that were crucial to those pieces of legislation. The area that is absolutely crucial with this piece of legislation is its constitutionality. It's one of rare pieces of legislation where every member of the House agrees on the principle and the principle is that you're now looking for a vehicle to get back the money that you've succeeded in losing through your lousy draftsmanship the last time. We agreed that you should patch up the bad job you did with Bill 42. On behalf of Saskatchewan taxpayers we agree with that intention. What concerns us is the constitutionality just as with other legislation we've asked for reports and things of that nature. Here too, we asked for the report in the very area that's most important to us, the constitutionality. And, Mr. Chairman, when the Attorney General says, no, I won't give you that information, I don't see how the public can draw any inference other than the inference that that material that those reports draw into question the constitutionality of Bill 47.

Mr. Cameron: — Mr. Chairman, if I can direct one or two additional comments to a point that I quite agree is not essential to the discussion but I find some frustration with the Attorney General consistently arguing against it. And that is the nature of the warnings you had about Bill 42 in the first instance and despite the evidence I've given you you continue to persist in your suggestion that you didn't have them somehow yet you had only to read every newspaper clipping across the country. Well, what you didn't know your Premier did know. And I want to quote to you from the Globe and Mail article of the 13 of December, 1973, and he was interviewed, your Premier, by Wayne Cheveldayoff. And this is it and it's a story that originates in Regina, 'the Saskatchewan government has no intention of backing down on its plan to impose a new royalty tax on oil despite federal warnings that the tax may be unconstitutional, Premier Blakeney said yesterday in an interview.' Now what more must I give you before you will concede to me the point that you were warned from all sides in '73 about Bill 42 and its unconstitutional aspect to it. Your Premier was aware of it, everyone in the whole world was aware of it, I don't know where you were during the time.

Mr. Romanow: — Mr. Chairman, you know, that anybody who knows about newspaper stories and newspaper reports can easily . . . no, it's probably an accurate report. I can see Cheveldayoff or somebody saying to the Premier, "Look here, I got a statement from Lang, one that you quote Alf Gleave gave, what do you say about it, it's unconstitutional, he says no, it's not unconstitutional." Then the story writes out the way you read it. And you make it out as if it's some sort of a wording. I repeat to you again, we've got no communication from anyone in writing or in any way other than in newspaper stories.

I want to come back to the point the member for Wascana makes because he can't get off the hook on this one . . . (interjection) . . . You talk about the constitutional opinions! Mineral Taxation Act, this spring potash bill is before the courts, Mineral Taxation Act amendments dealing with potash and potash cases. These same members, Mr. Chairman, members for Regina South and Wascana, who say that when they view something which is of the substance of the issue, i.e., the constitutionality, of which the potash thing is being debated about, I ask the members to remind themselves when was the last time they asked for a constitutional report. You know when? Not once. Not once on community cable casters.

I want to make one other final point if I can on this particular area. I just want to tell this because I'm sure that the hon. member for Moosomin is very interested in this and that is this. The Liberals are saying that Bill 47 is unconstitutional and they're saying that not

only that but Bill 47 is going to be challenged. That's what they say. The very first words of the Leader of the Liberal Party was, "It's unconstitutional the way it stands and it's going to be challenged, mark my words." And then they say in the same breath, "But table your legal opinions for those who are going to challenge this particular Bill 47 for the world to see." That's what they say. And then they say, to add the irony to it all, that we are interested to protect the benefits and the interest of the people of the province of Saskatchewan.

Now, Mr. Chairman, that surely just can't wash. That kind of a position, it simply can't wash. And I say that when you take on newspaper reports Cheveldayoff or whoever that's to be and say on the basis of quoted newspaper reports that Mr. Lang may have made, and responses thereto that we have been warned, to the best of my knowledge that was not the case. I stand to be corrected. I am going to ask over 5:00 o'clock to see what we've got in writing from anybody and see if that's the case, but to the best of my knowledge we were not. If you say that a remark made by the Minister of Justice at the time is warning, or one paragraph in four weeks of debate was warning, I say that just simply is incredible as far as the province or the people of Saskatchewan are concerned.

Mr. Chairman: — Order, order please. It now being 5:00 o'clock, I leave the chair until 7:00 o'clock this evening.

The Assembly recessed until 7:00 o'clock p.m.