LEGISLATIVE ASSEMBLY OF SASKATCHEWAN
Fourth Session — Eighteenth Legislature

January 9, 1978

The Assembly met at 2:00 p.m.

On the Orders of the Day

QUESTIONS

Purchase of AMAX

Mr. R.L. Collver (Leader of the Conservative Opposition): — Mr. Speaker, I would direct a question to the Premier. Further to your government's press release issued today on the purchase of AMAX and the interest of AMAX and the interest of the additional reserves at Bredenbury for $85 million, where is that money coming from, what allocations has the government of Saskatchewan made to provide for that money?

Hon. A.E. Blakeney (Premier): — Mr. Speaker, I was not aware that the government has put out a release on that. I was aware that AMAX had put out a release but not aware that the government of Saskatchewan had put out a release. We have an agreement in principle and the dealings with respect to when the funds will be paid and where the funds will come from, those matters are not yet finalized.

Mr. Collver: — A supplementary question, Mr. Speaker. The release by, admittedly, AMAX indicates that it will be necessary before the deal goes through for the government to require or PCS to require revisions in the contract between IMC and AMAX. First of all, what are those revisions that you are going to require, what concessions are you going to give to IMC in return for allowing the rewriting of the conditions of the contract, and is it true that you have informed IMC that if you agree to these changes or if IMC agrees to these changes in the contract no attack will be made on IMC with reference to its holdings in the province of Saskatchewan under Bills 1 and 2?

Mr. Blakeney: — Mr. Speaker, I think what the hon. member is asking is in essence what are the nature of the negotiations with IMC and I have to advise the hon. member that I do not regard this forum as the appropriate place for negotiations and accordingly I am unwilling to give him a report on the current negotiations indicating what is being asked for on the one side and offered on the other.

Mr. Collver: — Mr. Speaker, the question that I asked the Premier was, what indications have you received to this point in time from IMC that they are prepared to look at the contract with a view to opening up the contract and giving new terms and conditions. In other words, is this announcement that you have made today in any way close to being finalized insofar as IMC is concerned and have you made any preliminary agreements with IMC at this point in time, not negotiations but agreements?

Mr. Blakeney: — Obviously there have been contacts with IMC and the government believes that it will make an arrangement with IMC that is suitable to both sides. That is not yet finalized and, accordingly, I am not able to say what the nature of the agreement is or whether or not it will be finalized. Accordingly, I don't have anything to add to my earlier answer in response to the member's question.

Mr. E.C. Malone (Leader of the Liberal Opposition): — Mr. Speaker, I have the press release from the Potash Corporation of Saskatchewan, which was brought to my attention. In that release it indicates, and I quote:

> IMC has the right of first refusal to reacquire the reserves on the same terms and conditions offered by AMAX to any third party.

This would indicate to me, of course, that IMC now has the right to come in and offer AMAX $85 million for the assets being purchased by the government. Is it the intention of the government to hold out any financial inducement to IMC to prevent it from exercising this particular option, leaving it clear for the government then to go ahead and purchase? And secondly, if IMC does exercise its option and purchases for the sum of $85 million, the assets involved, is it then the intention of the government to deal with IMC and buy these assets, presumably at a higher price?

Mr. Blakeney: — Mr. Speaker, with respect to the latter question, there is no present intention of dealing with IMC in the event that they exercise their option to buy AMAX's holdings. That situation has not yet been approached since it is hypothetical.

With respect to the former one, I can only say that there have been contacts with IMC. There will be discussions, no doubt, negotiations with IMC and what the nature of those negotiations will be, I think it is not useful for me to comment on it at this time.

Telephone Call to Chief Electoral Officer

Mr. S.J. Cameron (Regina South): — A question to the Premier. On Friday I asked the Premier a series of questions with respect to the Pelly by-election returns and one of the questions was whether the Chief Electoral Officer had received a telephone call from the official of the Conservative Party requesting information which was the most serious of three possible offences under that Act. The Premier indicated Friday that he had no knowledge of a call. Since that time there have been press reports in which the Chief Electoral Officer has confirmed receiving such a call. My question to the Premier is, is when was that call logged and why, in view of its significance, was that not reported to the Premier?

Mr. Blakeney: — Mr. Speaker, I have to say that in answer to both questions I do not know. I don't know when the call was logged and I do not know why it was not reported to the Premier. Whether or not it is significant or not, I suppose, is a matter of opinion. All I know is: — (a) I don't know when it was logged; (b) I do not know why contact was not made with the Premier.

Mr. Cameron: — May I ask, by way of supplementary. Following my questions on Friday and the news report since, have you now made some inquiries of the Chief Electoral officer to find out whether or not in fact that call was made. What were the circumstances surrounding it and have you asked her for additional information of any kind with respect to this matter?

Mr. Blakeney: — No, I have not. I think that, and in all the circumstances and because of the approach taken to this particular problem, I do not propose at this time and on the facts as I know them to approach the Chief Electoral Officer. If she feels that there is a problem there which requires legal advice I know that she will get in touch with the Attorney General. If she is doubtful as to the policy which should be pursued I

am sure that she will get in touch with me. I am very much afraid that if I contact her on any ground, there will be allegations that I am somehow interfering with her jurisdiction on behalf of a particular political party.

Mr. Cameron: — Final supplementary. I ask the Premier when, when are you going to take a role other than the passive role you are currently taking? You are the minister responsible to report to the legislature with respect to this matter. Now, there have been a series of inquiries about it. It is a matter of some import, I suggest to you. My question is, when do you expect to have from the Chief Electoral officer a report with respect to this entire matter? And by way of an additional question, was this telephone call reported to the Attorney General along the way?

Mr. Blakeney: — In answer to the second question, I am advised that it was not reported to the Attorney General by the Chief Electoral Officer. I think he heard about it from the paper or from somewhere, but he did not have it reported from the Chief Electoral Officer. Because of the fact that there are at least suggestions that there may be breaches of the law here, I have asked the Chief Electoral Officer to make her report to the Attorney General and Deputy Premier. It is clearly difficult here to sort out what will be the policy issue and what will be the legal issue and in order that there be no possibility of confusion on the point, I have asked her to report to the Deputy Premier, the Attorney General.

Erection of School at Stanley Mission

Mr. G.N. Wipf (Prince Albert-Duck Lake): — A question to the Minister of DNS. Mr. Minister, at this time there is a school at Stanley Mission being built and I understand that the DNS is air freighting most of its construction material from La Ronge to Stanley by air freight. Can the minister tell this Assembly if gravel is one of the items that is being hauled by air for the construction of this school?

Hon. G.R. Bowerman (Minister of Northern Saskatchewan): — Mr. Speaker, no, I can't tell the member whether or not gravel is one of the items being delivered to Stanley Mission by air. I don't have that answer. I believe that the school in question at Stanley Mission is being built by the department, or at least financed by the Department of Northern Saskatchewan, but is in fact a Department of Indian Affairs school.

Mr. Wipf: — Supplementary, Mr. Speaker. Mr. Minister, then would you check into this as this is what I have understood. I also understand that there is a gravel pit near Stanley Mission and equipment there that can be used to get the gravel out. Mr. Minister, could you report back the cost of this, if it is happening?

Mr. Blakeney: — In answering on behalf of the government, may I suggest to the hon. member that he consult with his Member of Parliament since this is an Indian Affairs school. I don't know whether there is a Member of Parliament from the area that he represents but maybe he could consult with that member and get his answer.

Pelly By-election

Mr. S.J. Cameron (Regina South): — Mr. Speaker, a further question to the Premier. On Friday I had asked you some additional questions about meetings that you and your Attorney General had with the Leader of the Conservative Party, again with reference to the Pelly by-election expenses return and in particular with references to allegations on CBC television that the Conservative Party return was perhaps not an

accurate one. You had indicated to me on Friday that your discussions with the Leader of the Conservative Party took place in the Assembly and that it was a private conversation and you didn't want to disclose the contents of it.

By way of suggestion to you, by way of preamble, I am not sure that you have that luxury. I think you were consulted in your capacity as Premier. My question to you again is what was the nature of the representation made to you by the Leader of the Conservative Party and did you report the nature of those suggestions by him to your Attorney General?

Hon. A.E. Blakeney (Premier): — With respect to the second question, the answer is yes, I reported to the Attorney General. With respect to the first, I say what I said in the House, Friday. I believe it was, that I had a conversation with the Leader of the Conservative Party. That it was here in this Chamber. It was obviously meant to be confidential. I do not intend to disclose the contents of the discussion, except only to say this, so that inappropriate inferences will not be drawn, that he was lodging with me an objection, an objection to comments that I had made about the possibility of prosecution of the Conservative Party. I'm stating that too strongly but suggested to him that there might be investigations with respect to the return of the Conservative Party. He lodged the objection that I was not saying anything with respect to the other parties and I will say one thing that was not in the conversation, there was no request that any prosecutions that might be forthcoming out of all this, not be proceeded with. In fact, I think it was fair to say, both to him and to me, that both of us made it clear to the other that neither of us was suggesting that any potential prosecutions ought to be interfered with in any way. I try to state that as fairly as I can.

Mr. Cameron: — All right. The Leader of the Conservative Party had had a discussion with the Attorney General the day preceding the day he had the discussion with you. I asked again on Friday what the nature of that is and the Attorney general declined to disclose any aspects of that. My question is: when are we likely to be told, if at all, what the nature of that conversation is. Secondly is, what did the Attorney General do with respect to that conversation? Did he report it to you, any of the officials in his department, did he do a memorandum in respect of it? Can we expect some additional action or information to the House with respect to his meeting with the Leader of the Conservative Party?

Mr. Blakeney: — Mr. Chairman, the Attorney General did report the substance of that conversation to me. He indicated to me that he was giving it some consideration to see whether it warranted any consideration from him in his capacity as Attorney General, that he has reached no conclusions on that and has nothing further to say at this time on it.

Mr. Cameron: — Well when you say he considered further consideration by him in his capacity as Attorney General, may I ask you, is that because there is some possibility here that there may be some additional offence committed, that is to say, either a thwarting or an obstruction of the usual course of justice. Is that what concerns the Attorney General? Is that consideration now continuing and when will we have some response in respect of it?

Mr. Blakeney: — I simply cannot elaborate further. I don't know what considerations may be in the mind of the Attorney General . . .

Mr. Cameron: — Well ask him!

Mr. Blakeney: — You may feel free to ask him that question. If he had a conversation in his capacity as Attorney General, you are able to direct questions to him in precisely the same way you are able to direct questions to me. I say to you that I do not know what considerations are in the mind of the Attorney General other than that he was keeping his options open (if I may put it that way — in that broad way) to consider whether there was any substance there at all and he has reached no conclusions.

Policy Statement regarding Land Bank and Land Bank Tenants

Mr. L.W. Birkbeck (Moosomin): — Mr. Speaker, a question to the Minister of Agriculture.

Mr. Minister, will you be making a policy statement during the current sitting of the legislature regarding the purchase agreements policy between Land Bank and Land Bank tenants in order that the members of the opposition might have some input into the policy decision?

Hon. E. Kaeding (Minister of Agriculture): — Mr. Speaker, I expect to have an announcement very shortly.

Mr. Birkbeck: — This session, Mr. Minister?

Mr. Kaeding: — Shortly.

Moore Inquiry

Mr. G.N. Wipf (Prince Albert-Duck Lake): — Mr. Speaker, a question to the Minister of Social Services.

Mr. Minister, have you received a copy of the report of the Moore Inquiry as of yet and if you have when can we expect it to be tabled in the legislature?

Hon. H.H. Rolfes (Minister of Social Services): — Mr. Speaker, the answer to the first question — yes, I have received it and I hope to make it public within ten days to two weeks.

Conversations with Attorney General

Mr. Cameron: — Mr. Speaker, an additional question to the Premier. May I say that I have the impression you are standing on technicality here. I am going to ask of you formally, as the Premier, whether you are prepared between now and tomorrow at this time to have a detailed discussion with the Attorney General about the nature of the matter I am now asking you questions about and whether you are prepared to give us tomorrow at this time a complete considered statement about those conversations, what the nature of them was, what the Attorney General's consideration are, what are his concerns and what action you foresee happening in this respect?

Mr. Blakeney: — I think the answer to that is no. If the Attorney General feels that there is any action required by him in his capacity as Attorney General, I feel he will take that action. I have no grounds for believing that anything has transpired which requires

action by the Attorney General. I think that if I get myself into the position where when anyone suggests an impropriety and then directs a question to me and says will I discuss it with the Attorney General and find out what he is going to do, we get ourselves into a situation which I think is not appropriate for me as Premier. I know of nothing which would require action by the Attorney General and if there is going to be action by the Attorney General I would like him to take that without reference to me until he has made up his mind. I don't mind talking with him after he has made up his mind but if he has got something under consideration I doubt the propriety and rally would like to avoid the practice of directing a question to the Premier asking him to talk it over with the Attorney General and give a report.

Mr. Cameron: — May I ask a supplementary of the Attorney General to the question. My supplementary to the Attorney General then is, is what matter does he have under consideration with respect to that conversation that he had with the Leader of the Conservative Party; when can the members of the House expect to be told about that matter that you have under consideration and when are we going to get some disclosure in respect of that?

Hon. R. Romanow (Attorney General): — Mr. Speaker, I am not sure that the members of the House will ever get a disclosure about the conversation that I had. As the hon. members knows, I have many conversations both in my capacity as House Leader and in my capacity as a member of the Cabinet with all members of the Legislative Assembly and I don't make it a practice of revealing those conversations. I am not sure that the assumption upon which the question is predicated is therefore sound.

Mr. Cameron: — Supplementary. Are you in fact considering that conversation with respect to a possible additional offence? Have you reported the conversation to any of the officials of your department? Have you sought advice from any official in your department with respect to that conversation? What consideration are you giving to it? We are not getting the facts in respect of it.

Mr. Romanow: — Mr. Speaker, I don't think I can add anything further to what I said to the earlier question.

Golden Acres Motel — SEDCO

Mr. W.C. Thatcher (Thunder Creek): — A question to the minister in charge of SEDCO. Mr. Minister, on two occasions last week when questioned about the Golden Acres Motel which was a loan made by SEDCO or financed by SEDCO money, you indicated that the matter was before the courts on two occasions. Mr. Minister, I checked with the court records in both Moose Jaw and Regina and they show no evidence of SEDCO engaging any such action against Golden Acres or whatever form that you indicate that it has taken. May I respectfully as the minister, are you confusing court action with receivership? If not, then exactly what is the situation and if you are in court, then where?

Hon. N. Vickar (Minister of Industry and Commerce): — Mr. Speaker, this same question has been asked on three or four difference occasions and I have indicated to the hon. member that SEDCO is involved and it is in the hands of the court. I have asked my people at SEDCO to give me a complete run down as well as, if possible, a receiver manager's report, as was asked in the House last week and if that can be made public. If and when I get that information, I will be glad to give that to the member.

Mr. Thatcher: — A supplementary question. Mr. Speaker, may I then ask the minister since apparently he has asked his officials at SEDCO whether or not the report of the receiver can be made public? And perhaps I should be addressing this to the Premier, who in fact is accountable for SEDCO and to this legislature? I think by your answer right now it's a very fair question. Who accounts for SEDCO? Is it the bureaucrats or do you run SEDCO?

Mr. Vickar: — Mr. Speaker, sometimes I wonder whether the question should be answered directly in reverse. There are many times that we would like to disclose some information and we don't have the opportunity to do so. And in a case of that nature, it is sometimes better not, for the interests of the people that are concerned, not to divulge some of that information.

Mr. Thatcher: — Could the minister tell me, if personal guarantees were taken on this loan made by SEDCO and if so, what action has been taken to recover SEDCO's investment via this route?

Mr. Vickar: — Mr. Speaker, personal guarantees were taken by SEDCO on SEDCO's investment and as I've said it's in the hands of the courts, what action will be taken will be seen at a later date.

Mr. R.E. Nelson (Assiniboia-Gravelbourg): — Could the minister tell us in fact if there has been a report from the Receiver/Manager in the Golden Acres deal?

Mr. Vickar: — I have spoken to my people at SEDCO on the telephone about the subject and the only report they're aware of is one that was given to them at the time the Receiver/Manager first made his review and they're checking the situation.

Pollution Control taken at Big River

Mr. G.N. Wipf (Prince Albert-Duck Lake): — Mr. Speaker, a question to the Minister of the Environment. Over the past several years the property owners who live adjacent to the Saskatchewan Forest Products Mill in Big River have had continuous problems with pollution from that mill, such as it has caused fires on their property, ruined the roofs of their homes and their car has been ruined. It looks as if the Saskatchewan Forest Products Corporation has been ignoring the fire regulations, pollution control regulations and safety regulations at this site. Could the minister assure this Assembly that immediate action will be taken concerning this problem with Saskatchewan Forest Products to correct these problems on a permanent basis instead of a band-aid basis and the action be preferably the same type of action that would be brought against any other company that would happen to be owned by a large corporation with a branch plant in Saskatchewan?

Hon. N.E. Byers (Minister of the Environment): — Well, Mr. Speaker, the hon. member may not be aware that Saskatchewan has some of the stiffest air pollution control regulations in this country, that we do have legislation on the statute books that can require an operation such as Sask Forest Products or IPSCO or a firm causing air pollution problems to obtain a permit to operate and the terms of the permit will ensure that the plant is then operating within the standards prescribed.

May I say in addition to that, that for the past two or three years the federal government and the provincial government have had no less than 30 task forces working on the

question of developing air pollution standards. They are working in some 30 different fields. This is certainly a new approach on a national scale and the pollution control standards have not necessarily been agreed on at the national level for all contributors to air pollution.

Filing of Election Returns

Mr. C.P. MacDonald (Indian Head-Wolseley): — Mr. Speaker, I would like to direct a question to the Premier or the minister in charge of the office of the Chief Electoral Officer. As I understand it, additional inquiries were made by the Chief Electoral Officer in relation to returns filed by the three parties, the supplementary information relating to lumber particularly of the of the Conservatives return. In addition to that, supplementary returns were turned in by the New Democratic Party. Could the Premier indicate to me and to the House whether the Chief Electoral Officer is now satisfied that all the evidence and all the documentation is in, in relation to the election returns of the three political parties, or is she still inquiring about further additional . . .

An Hon. Member: — I understand she has asked, or is about to ask, and I believe the past tense is correct, asked all of the parties to meet with her to proceed in that way.

Mr. MacDonald: — Supplementary. Could the Premier indicate (he didn't quite answer my question). I asked him if the Chief Electoral Officer was satisfied with the receipts received and the documentation presented by the three individual political parties has been completed and finalized.

May I ask a further supplementary question? Could the Premier indicate what is the next progression of events at the conclusion of this meeting with the Chief Electoral Officer with the three political parties? If she is then satisfied that the documentation is completed, is it her intention to make a report to the Attorney General, to the minister in charge, or yourself, for then a decision on the government as to what action is to take place. Could he give me an indication of the progression of events?

Mr. Blakeney: — My course of action has been not to communicate with the Chief Electoral Officer but rather to ask, through the Attorney General, that she communicate with him. It may be that I should revise that to the extent of sending a letter to the Chief Electoral officer to make clear that I would like her to communicate with the Attorney General on this matter.

An Hon. Member: — . . . with documentation of any of the election returns of the three parties?

Mr. Blakeney: — Mr. Speaker, I am advised by the Attorney General that I could not say that the Chief Electoral officer was satisfied. She is, I gather because . . .

Mr. Merchant: — Did you talk to her directly?

Mr. Blakeney: — Mr. Speaker, was the question addressed to me or to the member for Wascana?

If in fact it was directed to me, if in fact whatever the defects in the electoral system, I am the Premier and the member for Wascana is not and accordingly I will attempt to answer it in that capacity.

I am advised by the Attorney General, who has been in contact with the Chief Electoral Officer, that she is not in a position to say that she is satisfied and that accordingly she

has asked all three parties to meet with her to go over the return to see whether or not there is mutuality of understanding of what each of the returns means and whether the interpretations put on the Act by the several parties were the same as her interpretation of the Act and the requirements thereof. I understand our course of action to be is as follows: that she is assessing the returns; she is gathering in such information as she feels is appropriate on those returns, having regard to the Act as she interprets it. She is taking legal advice if she is in doubt with respect to the interpretation of the Act, and when she has concluded these inquiries and reached the conclusion that there was compliance or non-compliance and has identified the areas of non-compliance, she will then report to the Attorney General for such action as he thinks appropriate. She may or may not include recommendations as to the course of action which she thinks is appropriate. In the meantime, she will not communicate directly as to what she should do; she will not seek instructions from the Premier as to what she should do.

That is the course of action which we have set out to follow. The Attorney General has, as I understand it, communicated that to her. Certainly we are acting on that basis. She is proceeding, as I understand it, on that basis and I would believe that that's the best way to proceed and propose to proceed on that basis.

MOTIONS

Hon. R. Romanow (Attorney General): — Mr. Speaker, before the orders of the day, I would like to move two motions; one by leave — that the order for second reading of Bill 33 — An Act to amend the Queen's Bench Act be discharged and the bill withdrawn. I have a new notice for a new Queen's Bench Act that I would like to move. The one that's on the order paper, printed, I think has some substantive House amendment revisions and the best would be is to drop it and have the new one resubmitted. So that's the purpose of this motion. I will so ask leave and concurrently give notice for the new bill.

Mr. Speaker: — I understand that leave is not required on this one.

Motion agreed to.

Report of the Select Standing Committee on Privileges and Elections

Mr. Romanow: — Mr. Speaker, before orders of the day, if I may be just permitted a moment — well not moment, just a half a second. Members of the House will know that there has been a committee report from the Select Standing Committee on Privileges and Elections making some recommendations. I would move, seconded by the hon. Minister of Finance (Mr. Smishek), the member for Regina North East:

> That this Assembly in accordance with the first report of the Select Standing Committee on Privileges and Elections request the hon. member for Souris-Cannington to withdraw unconditionally his letter of November 16, 1977 and to acknowledge that there were no proper grounds therefore and to make a full and ample apology to the Speaker and this Assembly for impugning the integrity of the Speaker and his office and for bringing into disrespect the institution of parliament.

Perhaps we might get also some photocopies distributed around after it is formally tabled. Mr. Speaker, I so move.

Mr. E.A. Berntson (Souris-Cannington): — Mr. Speaker, I have now had a chance to review the report of the Select Standing Committee on Elections and Privileges. I have previously withdrawn in an unqualified manner the letter on an earlier occasion, November 21, 1977. I, today, withdraw the letter for the second time. On November 21, 1977 I apologized to you, Mr. Speaker. I, today, again apologize to you. I have always supported your high office. I intended in no way to cast any slight or slur on your high office and I apologize for any aspersion against Mr. Speaker.

I note that every time in the history of the Legislative Assembly when a member has withdrawn a statement and made an apology, it has been accepted by all members except in the case of Progressive Conservative members. Mr. Speaker, I would like to put this matter into perspective and quote a statement by yourself on November 21, 1977. Page 83, I quote:

> I would remind the members that there are two parts to the letter; one is a political charge, if I may say so, which is fair politics. If one member of one party charges that other parties are conspiring against that party as it were that is a debating point.

End of quote. Your ruling that allegations in my letter were a debating point I obviously support. I ask all hon. members why am I to be denied of my right to make debating points and to debate freely? Why is my right to debate, a right stated by yourself and history, to be denied me or other duly elected members of this House. If another member was in this position I would defend his right to debate. I intend to say nothing further on this matter.

Mr. Romanow: — Mr. Speaker, I believe that one or two things have to be stated in response to the hon. member for Souris-Cannington and his words this afternoon. First of all, the hon. member for Souris-Cannington persists in the argument that there was a withdrawal of the letter in an unqualified fashion by him in the House and then ignores or chooses to ignore the subsequent development which it was, namely upon the so-called retraction. There was a repetition of the allegations in the contents of the letter within a few short moments outside of the Chamber to the press. The fact of the matter is that while there may have been an apology to the House in the face of the House, if I can put it in those words, there was in effect a revival of repetition of the offence by virtue of the statements which were made just a few short moments at the conclusion or after the proceedings in the legislature concluded on that particular date. I remember that particularly vividly, Mr. Speaker, because we adjourned the afternoon session on the assumption that we were going to consider the words of retraction made by the member for Souris-Cannington. I think, Mr. Speaker, even kind of suggested that this should be done, it was a few minutes before five. My recollection is the House either ended earlier or ended at least on the note that the words of retraction would be considered. It was subsequently on the six o'clock news that this matter was repeated.

The second point, Mr. Speaker, which I think needs to be made is the question of trying to differentiate between an allegation, a political allegation which can be properly made I suppose, and somehow the contents of the letter as it relates to you. Now, Mr. Speaker, the way I see the developments here, it is very difficult to separate the two matters, namely, in the course of alleging a political deal or a 'deal' between the Liberals and the NDP which the member quite properly and correctly says is his right to do and he ought not to be censored for doing that, at least in the sense of this House, the member coupled and in fact made it an integral part of his letter to you, the question of

the seating arrangement. It has been my view, now that the proceedings are over, but it has always been my view that the letter was so interwoven in its allegations of political deals as to be incapable of the kind of separation that the hon. member for Souris-Cannington would have this House believe, namely, that on the one hand a paragraph of the letter which alleges that there was a political deal could be separated from the other next paragraph which said that as a part of this deal, the result was they were deprived of their rightful place to sit in the seating arrangements. That, Mr. Speaker, is the situation. The letter I don't have in front of me but you will recall the letter talks about how there is this political deal and it goes on to say that as a consequence of this political deal, "our rightful place to sit has been denied". Mr. Speaker, the plain words of that have to be that as a consequence of that kind of deal or as a consequence of those kinds of dealings you are a party to it. Therefore, to say somehow I withdraw the allegations which came to you, Sir, but I don't withdraw the other aspects of that letter which pertained to what I allege are political dealings when you assess an integral part of that in the allegation, seems to me to be again a piece of legal fiction or political fiction in the extreme.

Finally, Mr. Speaker, I would close by saying that I find this entire incident a rather distasteful and embarrassing incident for the legislature and for the province. At first blush one might think that all we're talking about here is where the Progressive Conservatives should sit and what their rightful place is and if you talk to people outside the Chamber they will chastise us for wasting their time or spending their time, depending on how they describe it, so much time on worrying about where we sit. I remind you, Mr. Speaker, that this matter of seating and whether it was an important issue or not was raised not by us, not by the Liberals, but raised by the Progressive Conservatives, so that if there was any issue of debate as a consequence it was at their instance. Furthermore, Mr. Speaker, I would say that we have to look at it beyond the isolated view of purely seating arrangements. We have to look at this I think in the context of institution of parliament and an institution of democracy and that's why it's so important to this legislature and why I submit it is and is becoming more important to many more people outside of this Assembly, this whole so-called Berntson affair, and that is because what has happened here by the very act of the letter has been as the committee has found, a gross or a high violation of your office and of this institution which is parliament. It has nothing to do, Mr. Speaker, with the Progressive Conservatives or the member being a Progressive Conservative. If a member of the NDP had done the same thing I'm sure it would have been referred and properly so to the committee on privileges and elections. If a member of the Liberal Party had done that it would have been referred as well to the committee on privileges and elections. The Conservatives persist in a kind of political paranoia, Mr. Speaker, which is unparalleled in the history of my years in the Saskatchewan legislature. A political paranoia which has paralyzed their duty to deal with the important issues of the day, concentrating on propagating a mythology of some imagined deal that may exist between NDP and Liberals. I find, Mr. Speaker, that a sad commentary on the contribution that they as elected members of this House ought to contribute. And to continue this point as the hon. member for Cannington has done today that somehow there was and there is a deal without a shred of evidence anywhere, Mr. Speaker; they did not appear before the committee, they did not give any evidence to the committee through indirect sources, they never held to my knowledge a press conference, weighing the information of a deal before the table. I rarely agree with Leader Post editorials that the kind of action which the Leader Post only characterizes is really all show and nothing else seems to me to be a very sad state of affairs in Saskatchewan politics. So, Mr. Speaker, I hear what the hon. member for Cannington says I guess now it's incumbent upon all of us to assess the weight of the withdrawal. I think on a personal basis of that caucus the

member for Cannington is one who probably understands the institutions and has respect for the institution of parliament more than any of the others I would say, in all due respect. I believe he was sincere when he says that. I believe he was trapped into signing a letter which was a political letter rafted by others in his caucus. I think in an ill-considered moment he gave in to this and submitted the letter. I realize that he is trying to for his own caucus and his own sake draw some sort of justification for its action but I do say, Mr. Speaker, on balance in closing the debate on this motion, the whole situation indicates I think a style of attitude or an attitude toward government, a style of government if ever the day should be that the Conservatives are in government — and I don't think that day is likely to be coming very soon, Mr. Speaker — a style of government which is just doggone and downright frightening to most people and citizens in the province of Saskatchewan. I accordingly, Mr. Speaker, urge unanimous approval of this motion.

Mr. Speaker: — Motion agreed to?

Mr. Romanow: — Mr. Speaker, this is perhaps totally out of order but I know that it would be on the minds of some members. Personally I would like to take the position of reading what the words of the member for Cannington were today, before deciding if in my mind there's one person that is a sufficient, and adequate apology of the House.

Mr. MacDonald: — First, Mr. Speaker, I would like to inquire on behalf of I suppose all members of the Assembly, just exactly what is the process that we're now entering into, and I'm sure that the member for Cannington would like to resolve this issue once and for all as would all members of the House and I suggest also would the people of Saskatchewan. Can you, Mr. Attorney General, give us some indication as to what is the next step in this scenario?

Mr. Romanow: — Well I'm advised by our learned Clerk that the situation now is that if the House is unsatisfied with the explanation or the apology or the statements made by the member for Cannington today, that the procedure of parliament is that the duty is on the House Leader to then bring in an appropriate motion of censure or of penalty, if there is unsatisfaction with the words made. If there is satisfaction with statements made no further action takes place and the matter dies. If as I say about reading the transcript, if on reading the transcript and other considerations it is felt by the House or felt by the House Leader to so move that kind of a motion. That's why I say that I would like to have an opportunity of considering carefully the transcript of the words of the hon. member before deciding in my own mind what action if any should be taken.

Mr. Speaker: — Any further orders of the day.

Mr. Collver: — Mr. Speaker, before the orders of the day I thought I might, if the Attorney General is as concerned as he is about the written word of what the member for Souris-Cannington said today, I'd be happy if the page would take over the written document to them precisely as it was given today. Perhaps that would enable the Attorney General to take whatever steps he feels are necessary.

COMMITTEE OF THE WHOLE

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

Section 2

Mr. Chairman: — When we rose and reported progress the other day on Bill 47 we have completed Section 1 and we are on Section 2. I read the notes on the sides of Section 2 and now I propose to go into the first amendment and that is amendment to Section 2, clause 1(a) of the printed bill by the member for Regina Lakeview and it reads:

> Amend Section 2, clause 1(a) of the printed bill (a) by inserting after Act in the second line, "and shall be a Chartered Accountant with at least five years experience and approved by the Provincial Auditor".

Mr. E.C. Malone (Regina Lakeview): — Mr. Speaker, this amendment is submitted to highlight, I hope, our concern about the position of assessor. We feel that the position will be of a very sensitive and very involved nature because this particular individual is in theory going to be allowed to look at the books and records of an industry that is, I suppose, a multi-hundred million dollar industry in this province. We think that because of the degree of confidentiality that's going to be implicit in this type of job, the degree of expertise that is going of necessity to be brought to it, that there should be some parameters in the Act setting out that there be qualifications other than just being an employee of a government department as yet unnamed. Indeed, we are somewhat concerned that the government will use this particular section to merely appoint some functionary of an existing department who perhaps at this time does enjoy the respect and the confidentiality perhaps of the industry that he is going to be called upon to investigate. Now putting political consideration aside, Mr. Speaker, we think that because of the difficulty of the job, the sensitivity of the work that's going to be involved, we have to have somebody with some experience in the field of accountancy, somebody with some high degree of the capacity and abilities to properly perform the job that's going to be imposed on him by the Act when it's in due course passed.

Accordingly, we've moved the amendment indicating that the person should be a chartered accountant of some experience and five years is hardly a significant number of years of experience. And finally, somebody approved by the Provincial Auditor who's an official that we believe enjoys the respect of this Assembly, who's a person that's involved on a day-to-day basis in accounting procedures and checking into government departments whether they be Crown corporations or otherwise and a person who has some knowledge of accountancy and accountants in the province of Saskatchewan. Indeed, the chairman will recall that we passed an Act, I believe last year, indicating that the Provincial Auditor would be empowered to go outside of his department to hire private chartered accountants to do work on behalf of the government. We believe that this particular individual, Mr. Lutz, will as a result of that power given to him have some idea s to who is qualified in this province and who, perhaps, isn't so qualified. Accordingly, we urge upon the government this resolution or a variation thereof that does not suit their particular purposes, and accordingly, Mr. Chairman, I would so move resolution and I believe that's all that's required, is it not? You don't need the actual notice of motion form?

Mr. Romanow: — Mr. Chairman, I believe I've spoken to this during the course of considering clause 1 but I should just repeat again my arguments against acceptance of this motion by the committee. I think accounting experience and expertise certainly is something which is to be desired and we'll be aiming for that, I think there's no doubt

about it. But this motion, I believe, would unnecessarily tie the hands of the government, unnecessarily tie the hands of any government because it says, "That the assessor shall be a chartered accountant with at least five years experience and approved by the Provincial Auditor." There are three conditions there that are imposed, namely that he be a CA, that he have five years of experience and that he be approved by the Provincial Auditor. And I believe that what may be even more important than accounting expertise is a person who is experienced in administration of the oil industry. We really need someone who is experienced in administering the oil industry and dealing with the oil industry and if that person is a chartered accountant with five years experience — all the better. But to limit and to accept the amendment by tying our hands this way, I think would be an unreasonable situation. Furthermore, Mr. Chairman, I indicated the other day my opposition to the suggestion that this appointment be approved by the Provincial Auditor. I believe that this would be a very marked departure from the practice in a parliamentary system of government. The assessor must be responsible to the minister, not only in his appointment, but in his actions. That's the system of ministerial responsibility that we're used to and that I think we all support. I believe making the appointment subject to approval by the Provincial Auditor would be a very marked deviation from that concept. For these reasons, Mr. Chairman, I urge the defeat of this amendment by the committee.

Mr. Malone: — I should just like to ask a couple of questions of the Attorney General. Firstly, do you have anybody you're considering at this time to take this particular job of assessor? And if so, who is this person who has this wide experience with the oil industry? Are you intending to appoint somebody from the existing offices of government, if so, who? If not, where do you intend to go to find the individual involved?

Mr. Romanow: — Well, Mr. Chairman, we do not yet have any name in mind. We may very well have to recruit a person who will be the assessor. But I do hold the view that the Department of Mineral Resources does have very many competent individuals that are capable of doing this job. I don't want to get into the business of naming some of the names. There are some CAs who are also involved in the DMR now and who have been involved in works relating to audit, payment of taxation and so forth. So, I can only say to the member that we do not have a name yet. We may have to go outside the present civil service staff in order to get a proper assessor.

Mr. Malone: — One more final question, how much will this assessor be paid? Has that been determined as yet?

Mr. Romanow: — The sum has not yet been fixed. But quite clearly we will have to pay the amount of money that is necessary to attract the correct person.

Amendment negatived.

Mr. Chairman: — Second amendment on Section 2(1)(e) of the printed bill. It's to amend Section 2(1)(e) by striking out, "The department over which the minister presides" and substituting the following . . .

Mr. Malone: — I'm sorry, would we not go to b, then c, then d.

Mr. Chairman: — We have no b, c . . .

Mr. Malone: — Yes, I know you have no amendment . . .

Mr. Chairman: — But we will call them if that is the wish of the committee.

Sections b, c and d agreed.

Section (e)

Mr. Chairman: — We have an amendment to (e), by the member for Regina Lakeview. It's amend Section 2(1)(e) of the printed bill by striking out "department over which the minister presides" and substituting the following: — "of Mineral Resources".

Does the member so move?

Mr. Malone: — I so move. Mr. Chairman, before I say a few words on this, I wonder if the Attorney General could give me some reason for the practice of this government of never setting out in an Act what department is going to administer the Act. I haven't been in this House as long as the Attorney General, I expect to be in it a great deal longer than he has been, but I find that in the past the department is always named, the minister is always named. It is only under the NDP government that we have gotten away from this particular tradition or rule of always setting out in an Act what department is going to be involved. Now in the amendment before you we suggest the Department of Mineral Resources. We could really care little which department it is, if it is the Department of Finance, fine; if it is the Attorney General's department, fine. But we think that a principle should be followed. The government should set out precisely in an Act what minister is going to be involved and what department is gong to be involved. For the life of us we can see no reason for the government not doing this.

Mr. Romanow: — Mr. Chairman, the reasons I think are ones basically related to administrative simplicity. I think those are very good reasons. I have been the Provincial Secretary (I guess that's about it), in charge of the Provincial Mediation Board, the Provincial Mediation Act. Every time that we have to have a reassignment of those responsibilities and those two responsibilities that I indicated by the way are two responsibilities which are very gloriously carried out. The Premier in his wisdom saw fit to move me out and assign to somebody else. We would have to have an amendment to the legislature and say that this now has to be in the hands of the Minister of Finance or the Minister of Public Works or whatever. I believe that what is more important is that from an administrative point of view we can make these assignments fairly clear and fairly quickly without the necessity of going back to the legislature and arguing about what surely must be more or less an administrative detail.

Mr. Malone: — I suggest to the Attorney General is the reason you don't set out the department or set out the minister, is it when the first minister and first department takes over the Act and if they botch it up, which has been the case in the past with your legislation, it allows you then just to assign it to somebody else rather than coming back to the legislature and having a full-scale debate on the mess that the particular minister has made of the particular Act.

Now can I ask you, what is the intention of the government? Which department and which minister of government is going to look after the administration of Bill 47?

Mr. Romanow: — The Department of Mineral Resources and the Minister of Mineral Resources.

Amendment negatived.

Section (f)

Mr. Chairman: — We have an amendment in (f), moved by the member for Regina Lakeview and it is amend Section 2(1)(f) of the printed bill by striking out the words:

> The member of the Executive Council to whom for the time being the administration of this Act is assigned

And substituting the following:

> The Minister of Mineral Resources.

Mr. Chairman: — Does the member so move?

Mr. Malone: — I so move, Mr. Chairman.

Amendment negatived.

Sections g, h, i, j, k, l agreed.

Section (m)

Mr. Chairman: — We have an amendment in (m) and it is moved by the member for Regina Lakeview. Amend Section 2(1)(m) of the printed bill by adding after the word 'act' in the second like the following:

> And shall include the Saskatchewan Oil and Gas Corporation.

Does the member so move?

Mr. Malone: — Yes, I so move, Mr. Chairman. I think this is perhaps a more substantive amendment that the other ones we have considered to date.

Firstly, I think it is the intention perhaps of the government at this time to have this Act apply to Saskoil. At least we have had comments from ministers opposite that they will be so doing. But if that is the intention, Mr. Chairman, I can see no reason why it cannot be put in the Act for clarification purposes. If the government in the future, which I believe will be their intention, their future intention, is to exempt Saskoil from the provisions of Bill 47, that they will have to come to this legislature in order to have enabling legislation to do so.

Now earlier in this debate on Bill 47 it was brought to the government's attention that if the provisions of Section 7 of Bill 47 had applied to Saskoil for its last fiscal year, that rather than showing a fairly substantial profit from its operations, that that company would have shown rather a dramatic loss. We believe that Saskoil should be put in no higher or no lesser position than the private section who are exploring for oil in this province. We believe that if the government's intention is to have a Crown corporation involved in this activity, which we believe is unnecessary and is a waste of the taxpayers' money, that the very least they should not be put in a preferred position. Accordingly, Mr. Chairman, we think that one of the ways of avoiding a preferred position for Saskoil

is to spell it out in the Act so it is abundantly clear to the people of Saskatchewan and indeed to the private oil industry that they are not going to be put to a disadvantage because of Saskoil. Indeed, that Saskoil is going to have to play by the same rules of the game as the private sector is going to have to play by.

Accordingly, Mr. Chairman, we can see again no reason why the government wouldn't accept this amendment. I believe the Minister of Mineral Resources has indicated that it is the intention of the government to have the Act apply to Saskoil. If that's the case then I think that the amendment is well taken and I would urge all members to support it.

Mr. Romanow: — Mr. Speaker, I really believe that this amendment is unnecessary. I have also indicated earlier, perhaps not only unnecessary but mischievous. At least that was my expression of it. I don't want to be unduly provocative, since we are getting off to such a nice start today, of the Leader of the Liberal Party. But in my judgement it certainly is unnecessary. After all, Saskoil is going to be a taxpayer like any other taxpayer under the Act. A taxpayer is defined in this bill. It will be obligated to follow the provisions of the bill just as will any other person who earns oil well income in the province. And clearly the member knows that there is no legal necessity for special reference in Saskoil in it. In fact the speciality of the Saskoil reference as proposed by this amendment is where the mischievousness comes in. At least I would argue where the mischievousness comes in.

I think it also could be said that the amendment could raise inconsistencies in the Act since it is possible that the Saskoil and Gas Corporation may not be libel for tax in a particular year, for instance, if it suffers a net loss in any year. But it would still be a taxpayer for the purpose of the Act and, therefore, subject to all the obligations and duties of a taxpayer.

So, Mr. Chairman, I think there is ample reasoning there to defeat this amendment as well.

Mr. Malone: — Let me ask the Attorney General. Would he not agree with me that if Saskoil isn't directly included in the Act, that there is nothing that makes it mandatory on their part to pay taxes under Bill 47, except for direction by the government that they are libel to the Act? If that direction can be made in such a cavalier way it can be removed in a very cavalier way. It is your present intention now, indeed, to have Saskoil pay, but it could be weeks, months, years down the road, your intentions simply to direct Saskoil to not pay taxes under Bill 47 through an Order in Council and that order would be relevant and that order would be abided by Saskoil, and indeed such an order could be made covered up by Orders in Council, not be made public and it could be some time before the taxpayers of Saskatchewan would find out and realize that Saskoil is indeed not liable for this particular Act.

Mr. Romanow: — Well, Mr. Chairman, I think an argument could be made out as the Leader of the Liberal Party indicates because Saskoil is a Crown corporation, but as I have indicated in the remarks earlier, Saskoil will be a taxpayer under this Act, just as will any other person who earns oil well income in the province. There is the intention of it, there is no legal necessity for us to do otherwise on this and the protection if that's what is needed is very simple. If there is a non-payment of tax as required by this bill by Saskoil that is going to be obviously duly noted by auditors and other documentation and it will come to light, so again I just do not think that the amendment is even necessary.

Mr. Malone: — Will Saskoil be required to file the mounds of paperwork as required by the Act to bring their tax situation up to date from 1973 to the present time?

Mr. Romanow: — Mr. Chairman, we intend to have Saskoil comply with the Act as if it were any other oil company.

Mr. Malone: — What will be the cost to the taxpayers, the anticipated cost to the taxpayer of such paperwork being completed and submitted by Saskoil? Do you have any idea at this time?

Mr. Romanow: — We don't have any ideas of the cost but I don't believe that the paperwork is going to be any large factor. I do not think we ought to concern ourselves with man years of paperwork in terms of preparing the return. I do not think that is going to be a significant matter.

Mr. R.H. Bailey (Rosetown-Elrose): — Mr. Chairman, can the Attorney General tell us if under the provisions of this Act and the retroactivity of it, is there money that will be owed by the Saskoil once this bill is passed?

Mr. Romanow: — Mr. Chairman, I don't know, that is something that the rates will have to decide once we set the rates of taxation. Saskoil like any other taxpayers will look at the rates of taxation retroactively and we will see how much is owing by them but the simple fact of the matter is this is a law which will impose a rate of taxation on oil companies and Saskoil will be paying this rate of taxation like any other oil company and we expect Saskoil to be meeting its obligations under the law as we would expect any other oil company of meeting its obligations under the law.

Mr. Bailey: — Mr. Attorney General, can you tell us, to rephrase the question — has anyone in government or officials of the government taken a look to see the amount of money or the approximate amount of money that is owed by Saskoil under this bill?

Mr. Romanow: — Mr. Chairman, this is not possible at this stage since we don't have the rates of taxation fixed, therefore we don't know what the amount owing by Saskoil is going to be, but I presume or assume that Saskoil officials and the corporate staff of Saskoil will be dealing with this bill and working with this bill as any other oil corporation will be dealing with the bill by their obligations under the law.

Mr. J.G. Lane (Qu'Appelle): — Mr. Minister, has Saskoil set aside funds or reserves or contingency reserves to make payments under the taxes? That would be sound management decision if it did so and if so, how much?

Mr. Romanow: — Mr. Chairman, I'm not sure that it would be sound management as the hon. member says to set aside for reserves, I'm not saying that it is or isn't, I'm just not qualified to say whether it is or isn't. The answer to the question specifically, have reserves been set aside for this Bill 47 matter, I'm advised although we do not have any Saskoil people here apart from Mr. Lloyd who is sitting on the board of directors, that there are no reserves specifically as a contingent for this Bill 47 matter. I would be very surprised if any oil company anywhere in the consequence of the circumstances surrounding CIGOL was able to foresee their bookkeeping and their accounting in such a way as to have reserves set aside for this contingency. That's the answer on that question.

Amendment negatived.

Mr. Chairman: — We have (n) is "well" or "oil well" and we have an amendment to (n) moved by hon. Mr. Romanow. Amend subsection (1) of Section 2 of the printed bill by inserting after "collectively" in the fifth line of clause (n) the following:

All wells that the assessor determines from time to time are to be treated as one well and . . .

Mr. Romanow: — I believe I indicated to the House that we would be moving some amendments and this is the first one of a group of amendments. I think I explained it very simply for the House, this proposed House amendment will permit the assessor to determine that a group of wells is to be treated as one well for the purposes of this Act even though they are not technically proven a drainage unit or part of a so-called unit area operation. By passing this amendment, Mr. Chairman, this will permit greater flexibility in dealing with various kinds of joint operations in the oil industry. The concept on which the proposed amendment is based really comes to us by way of request buy the Canadian Petroleum Association and also by the Independent Petroleum Association of Canada and some independent Saskatchewan producers.

Mr. E.F.A. Merchant (Regina Wascana): — I am sure the minister has had occasion to look at the amendments that we have proposed and I wonder whether he would indicate whether in part this solves the problem proposed in our amendment, Section 4(b), which would allow some election by the taxpayer to deal with oil well income on the basis of oil wells as a unit as opposed to dealing with them individually.

Mr. Romanow: — Mr. Chairman, I am not sure how one could work this but I think from the Liberal point of view this amendment will partially go toward that objective because it does change it from a strict well by well basis to a kind of grouping of wells. This is a request which was presented to us by the Canadian Petroleum Association as I indicated about the time the member was coming to his seat and there will be some further subsequent amendments which the government is proposing along this line, I think more directly with respect to Sections 33 and Section 4, if I am correct.

Amendment agreed to.

Section 2 as amended agreed.

Section 3

Mr. Malone: — Mr. Chairman, I don't want to belabour the point but I'd like to briefly repeat the arguments that we have, Mr. Chairman, for this particular amendment. And the argument is twofold. Again, I think that I want to stress just as strongly as I possibly can, the fact that we, as legislators are concerned that this government has taken on to itself the right to impose income tax. It's the role of the democratically elected legislature or parliament or whatever the institution is called in our British Commonwealth tradition to set income taxes. I don't think that there is a single case that the Attorney General can name anywhere in the British Commonwealth where a government has taken on to itself the right to levy income taxes without consulting with

the legislature first. Now, I can hear the Attorney General already getting up to mutter about legislation in Alberta. The Attorney General knows full well that the legislation he refers to in Alberta is a royalty type of procedure. It's a procedure that has nothing to do with income tax law or income tax legislation. Furthermore, Mr. Chairman, in a desperate attempt to try and patch and repair this bill so that we'll not be subject to attack by the industries which it no doubt will be in its present form, we believe that if the legislature is given the right to consider and determine the income tax that is set by the Cabinet, it will take away one of the attacks available to the oil industry and that is that the Act does not set a true income tax as known in law. Once again, for I think the third or fourth time, I refer the Attorney General to the decision of Mr. Justice Dickson in the Supreme Court of Canada, where he goes on at several pages talking about an income tax. If this Act is not found to be an income tax or the provisions of the Act are found not to be an income tax, all it does it give added ammunition to the oil industry to go ahead and upset the Act with the resulting disaster catastrophe to the people of Saskatchewan. This section alone we believe strongly, Mr. Chairman, if not amended in accordance with our suggestion or some similar way in itself will allow the industry to attack the legislation and to get back to that nightmare situation that we're trying to avoid, or having the people of Saskatchewan having to repay some $580 million in taxes illegally collected under Bill 42.

Now we try again and again to impress these views upon the government. The government sits back and says no, they're not going to listen to us. No, they're not going to accept our suggestions. They refuse to give us any of the opinions that they've received as to the constitutionality of the Act. I daresay, Mr. Chairman, that if we saw those opinions we would find that those opinions deal with this particular section, that they caution the government against the way it is presently worded. We say, Mr. Chairman, that this Act is really the guts of the bill, as I've said time and time again, in the past. The government has said nothing to change our view. We say that unless the Act is amended in accordance with the suggestions we have made, that all we're going to do is prolong the inevitable, that we're going to be back in the Supreme Court in a matter of months or years and this bill in itself is going to be struck down by that court. We make these amendments, Mr. Chairman, in a desperate attempt to convince the government that unless these amendments are adopted, we're just getting ourselves from a serious situation into a catastrophic one. So I would urge all members, Mr. Chairman, whether they sit on this side of the House or behind the Attorney General and his advisors to give some attention to the key provisions of this Act, which may be so disastrous to the people of the province and to consider the amendments we have suggested and to vote for them.

Mr. Romanow: — No, never, Mr. Chairman.

Amendment negatived on the following recorded division.

YEAS — 16

Malone	Nelson (As-Gr)	Birkbeck
Wiebe	Clifford	Berntson
Merchant	Collver	Katzman
MacDonald	Bailey	Wipf
Cameron	Lane (Qu'Ap)	Thatcher
Stodalka		

NAYS — 25

Blakeney	MacMurchy	Feschuk
Thibault	Mostoway	Rolfes
Bowerman	Banda	Tchorzewski
Smishek	Whelan	Vickar
Romanow	Kaeding	Skoberg
Byers	Dyck	Johnson
Kramer	McNeill	Thompson
Kowalchuk	MacAuley	Lusney
Matsalla		

Mr. Chairman: — Now, we have clause 2, I believe it is of Section 3 and we have an amendment by the member for Regina Wascana. Amend Section 3 of the printed bill by inserting after subsection (1) the following subsection: "(2) the Lieutenant Governor in Council shall on the day this Act is proclaimed in force publicly announce the taxation rate or rates prescribed pursuant to subsection (1)." Does the member so move?

Mr. Merchant: — Yes, Mr. Chairman. Mr. Chairman, before I address myself in some detail to the purpose of this amendment let me only make a few comments about the last vote which was sort of a fascinating vote. The members will recall that when almost the same thing came up in the House the other day, in the absence of the Leader of the Conservative Party, the Conservatives abstained, couldn't decide how to deal with that issue. Indeed, Mr. Chairman, the hon. member for Rosetown-Elrose told the House that he didn't think that mattered. He didn't think that was important.

Of course, his leader had said some time before that he thought it was important and indeed that he thought that was the most important thing that went on in the Act.

I think, Mr. Chairman, it only tends again to demonstrate that the Leader of the Conservative Party is prepared, at his convenience almost, to pull the rug out from under his members. In this case the hon. member for Rosetown-Elrose had said, not a sitting day ago, that he didn't think there was any importance in these provisions and didn't think that the amendment that was to be moved by the Liberal Party was of importance whatsoever.

(Laughter in Conservative caucus.)

Mr. Merchant: — I don't know why you would laugh. I am not sure you were here. There's no question, that's what he said.

Mr. Lane (Qu'Appelle): — I'm laughing at the irrelevancy of your . . .

Mr. Merchant: — It's true. That's what he said.

Mr. Chairman: — Order. Get back to the amendment here.

Mr. Merchant: — Oh well, I didn't want to get back to it. I wasn't sure I had gotten to it yet, Mr. Chairman.

Mr. Chairman, the importance of this amendment and the amendment in Section 42 is that the government has said to us that they don't propose to bring forth the legislation. They don't propose to proclaim the legislation until they have come up with the regulations and also decided what the tax rates would be. Pretty reasonable concept. One would have been surprised had they decided to do anything else. We will see how reasonable you are, based on your decision about these amendments.

What could be simpler, obviously? You have legislation which is taxing legislation. The government takes from the legislature the power to impose the taxes, takes from the legislature the opportunity to consider the rates of taxation that will be imposed. Now

all this amendment says is that surely when you bring the law into effect you will at the same time announce what the initial taxation rates will be. Pretty simple kind of concept for a tax Act.

I think it is important to remember that imposing the tax is the whole intention of this legislation as is the case with some other legislation to do something else and then the taxes are imposed as sort of an off-shoot. This is taxing legislation. Surely one could say the government will not bring the legislation into effect until they have decided what the tax levels will be. Surely they won't get the time periods running because the industry, the people who will be taxed, have to prepare certain papers based on the date of proclamation. They can't prepare those returns and decisions until they know what the regulations and the tax rates are. What could be simpler then than to say to the government, when you proclaim the legislation bring the tax rates into effect.

That's what this amendment asks the government to do. The minister has said that's their intention anyway. How could he say anything else if he is a reasonable person? He says he is a reasonable person. Now all that we ask on behalf of the taxpayers of the province, and I suppose on behalf of the industry, is to confirm in statute the intention that the government has expressed to us, presumably a considered intention brought forth by the minister. So we say, well if that's your intention, why wouldn't you be prepared to protect the taxpayer in this case?

Mr. Chairman, it is not in a class with some form of amendment which would affect the government and take from the government its freedom of action for future years, because this amendment will only matter between now and the date of proclamation. It is not as though we are doing something that would have to be repeated year after year after year and perhaps four or five years from now some new minister or some new Cabinet would say, no, we don't want to handle it that way. This amendment wouldn't work to the detriment of the future. As soon as the legislation is in place then the operation of this amendment would come to an end.

I suggest, Mr. Chairman, Mr. Minister, that it is a fairly simple kind of concept. If you were being honest with the House the other day when you expressed your intention, you will be prepared now to allow this amendment to pass, an amendment which would go a long way towards convincing the industry that you do intend to deal fairly with them, which I suggest is an important thing in terms of the attitude of the industry in these months when you are just starting to rekindle what was almost a destroyed oil industry in Saskatchewan.

Mr. Romanow: — Well, Mr. Chairman, I hear what the hon. member has said and I think I have spoken to this now a couple of times. I am not sure that the amendment is really needed, since as I have indicated, this is likely the direction that the government will be going. I know this will prompt the member to say well if that's likely the way you are going to go then there is no harm in putting it down in writing. Sure enough that's possibly the case. But in my judgement, on balance, the necessity of the amendment has not been made out. I think to delay proclamation until the rates are ready might cause difficulties indeed if the industry were to continue to claim that there was no valid legislation in force under which it was required to pay the tax. I don't put any big substance in that argument but it is an argument which might very well be advanced. I think also that there may be other difficulties pertaining to the suggestion. But the biggest argument against accepting this proposed amendment, in my judgement, is the one that I have advocated already, namely that we have indicated this is likely the way we are going to go and I think this amendment, therefore, is unnecessary.

Mr. Merchant: — Would the minister be prepared to indicate, to guarantee to the House, that you will not have the time begin to run, the 180 days or the 90 days depending upon whether you pass a further amendment, that you will not have the time to begin to run against the industry for the purposes of filing until such time as you have given them the tax rates and the regulations?

Mr. Romanow: — Well, Mr. Chairman, I am sorry that I must have missed the substance of the question. If I have, I am sure the member will ask me again. But I want to make one other point that has been brought to my attention by the boys back here and that is that the way the amendment is worded, the proposed amendment by the Liberals, is worded . . . I just can't put my finger on it right now . . . would likely mean that tax rates from 1974, the past tax rates retroactive tax rates, and the future rates would have to be set upon the completion of the amendment. The member for Lakeview says that's so. I think that in itself might pose some difficulties. Furthermore, that is to say the aspect of retroactive and the future rate also but the other argument is the one advanced by the lawyers and that is that on this proposed amendment any future rate, there could be a strong argument advanced that the rate should not be changed by Order in Council in the future. In all likelihood some lawyer would argue that we would have to come back to the House with some form of a debate on any change in that future rate. And quite clearly that cuts down on the kind of flexibility which we have argued this bill needs in order to accomplish the things that we have been urged to have accomplished by the members of the Liberal Party. So, again, I am not quite sure I am speaking directly to the member's question but certain I could add that as additional information as a vote against as to why we should vote against the amendment.

Mr. Merchant: — . . . but I'll come back to it. What concerns the minister, Mr. Chairman, when you say that this would cause you to fix the past rates and the future rates, leaving aside the argument about coming back to the House for an amendment, what concerns you, the past rates or the future rates?

Mr. Romanow: — Well, Mr. Chairman, of course the situation is that we're concerned about both rates. We are concerned that we have an adequate amount of time which proclamation may not be necessarily the answer. In other words we may proclaim that we may not be in the position to announce the retroactive and the prospective rates. The important thing that we, I think, feel is necessary if we are going to do the thing which is both fair to the industry and fair to the people of the province of Saskatchewan is to have a degree of flexibility and that's the thing that concerns us the most and that applies to both the retroactive and the prospective.

Mr. Merchant: — Where do you believe that you will have the greater problem, the rates for the future or the past rates? Where will be the delay be?

Mr. Romanow: — It is difficult to say because we have not done that much work with respect to the preparation of the rates other than the amount that I indicated on Friday, last. This is just my own personal guess, my own guess would be that the past rates would probably be the larger amount of work.

Mr. Merchant: — That's what I thought, Mr. Chairman. I wonder if the minister could tell the House why. It is almost incomprehensible to me that you could bring down taxing legislation, your counsel comes back from a case before the Supreme Court and in the nicest language he can d raft, tells you that he got whopped in the Supreme Court and it doesn't look so hot. Everybody expects the judgment to come

down quickly. Everybody thought there would be a quick judgement and we went for Wednesday after Wednesday, which a lot of lawyers may not know is not when you rich in the Western but instead when the Supreme Court decisions come down, we went from Wednesday to Wednesday expecting the CIGOL case to go against the government. There was never any question in anybody's mind, they couldn't possibly have reversed what they had said in the court, they were so clear.

Well the minister said he was still hoping against hoping and whistling in the dark. All right, but the fact is that clearly back at that time the government warrants some attempt to extricate themselves from the mess in which they had planted the people of Saskatchewan. So the government — this is more than a year ago — the government more than a year ago clearly was drafting some legislation, taking some steps, Mr. Chairman. Now surely to God they weren't drafting tax legislation without giving some thought to the tax and the regulations. They hired lawyers outside of the province. They paid probably $100,000 plus for their expertise. They no doubt turned half of the people in the public service within the minister's department, the professionals, the lawyers certainly probably were devoted to it. The man sitting behind the minister I am sure has devoted the past year, in large part, to trying to conceive a way of trying to extricate the government from this mess. Then legislation came down which was pre-planned, it came down after the judgement. The government said we need time to bring down the legislation. They had already had about eight or nine more months beyond the time when anybody else thought the judgement would be brought down, so that the government had ample time to consider. They brought in taxing legislation. The Premier said, we think we'll be able to have the rates and the regulations for third reading. The government thought that third reading would be sometime in early December and perhaps late December. The Premier no doubt, basically an optimistic sort of person, probably thought December 10, December 15. He thought you could have the rates. He thought you could have the regulations. Now it's the ninth of January, you still don't have the rates. It is well over a year from the time when you probably anticipated that you had to bring in corrective legislation to extricate the Saskatchewan taxpayer from your debacle and still you say you don't have the rates, we don't know what we are going to do with the tax levels and still you say to people in this House, we should vote in the dark. We should trust the government, we should vote, we should take a blind stab and trust me, I'm your Attorney General and I say I am not going to do anything untoward.

You say to the industry, Mr. Chairman, that's what's so surprising, they say to the industry that you have got to bring down your returns within 90 days, within 90 days of proclamation. Now the government is kind enough to tell the industry that it may be six months before they have the rates and the regulations but within 90 days the industry has to file on the past years. The government says we know it will take a long time to file each year so the government says in future years you've got 180 days in which to file but for the past four years, the first time at it, for the past four years you've got to file within 90 days. Now I say to the Attorney General surely you had the rates, surely . . . I believe you've got the rates right now. I find that very hard to believe, very hard to believe when the Premier . . . look, the Premier is not a man who ordinarily says things without some consideration. Which is it, take the first shot at knocking him off after you go under in Bill 47, Roy? Which is it, did the Premier make a mistake when he said that they had the rates for third reading? Was he just shooting in the dark and wrong or are you now saying that you don't want to produce the rates because you don't want members of the House and the oil industry to have an opportunity to peruse the rates in public at a time when the House is in session?

You know, one or the other is the case. Either the Premier was speaking out of line, he is not the sort to not consider what he is saying, either the Premier made an unconsidered statement or you are holding back the rates. I think that the government is deliberately holding back the rates. I don't even know the reason you are holding back the rates. And then, Mr. Chairman, the government says, well we can't even guarantee that the rates will be forthcoming in a month or two when we proclaim, although the Attorney General has indicated that they intend not to proclaim quickly. We have been told that, that this Act isn't going to come into effect quickly. We have been told that this is not costing any money by not proclaiming so what's the reason for hiding the rates and what's the reason for refusing to pass this amendment? It just doesn't all hang together, Mr. Attorney General, with the things that the Premier has been saying, the things you've been saying and this history of the CIGOL debacle that we can see.

Mr. Romanow: — Well, Mr. Chairman, the member really is saying two things. First of all he is saying by virtue of certain statements made in the course of arguing CIGOL, the decision made by the court, we ought to have been in a position to have included in statute the exact rates of taxation or at least to have been in a position to have had the rates of taxation, if there is regulation ready. I say with respect to the member that this simply is not a well considered statement by him. Considering the remarks which are made by justice in the course of an argument in the course of deliberating a case is one thing, but waiting till their actual judgement and the reasons therefore upon which the rates of taxation can be set is an entirely different thing. The fact of the matter is that we did not know until November 23rd, 1977 which was judgement day on CIGOL as to the outcome of the case and perhaps what is even more important for the purposes of this legislation the reasons for the outcome of the case. We had to know what the justices set for us by way of guideline on direct versus indirect taxation. We had to know, well at least we got the information from the justices as to what the trade and commerce powers of the federal government were vis-à-vis the province of Saskatchewan. These are kinds of decisions which, I am sure the hon. member for Wascana would agree with me, are very important before the government could set about the drafting of any new repair legislation. So to argue that simply the storm warnings were out and as a consequence we should be ready to go, I say begs the basic situation.

The second thing that the member argues is that we have no good reason for putting the rates of taxation into regulation as opposed to statute. I have indicated two or three reasons. I think they are in some way or another interrelated. But we have argued all along there is a need to consult with the industry. We want to know what their views are on this new rate of taxation. We are only taking the words of advice that you and your leader and members of your caucus gave us, in fact the advice that the members of the Conservatives gave us. They said use the word 'negotiate'; I said fine, we would be prepared to consult, discuss but that is the point of it. We need to have time after passage of the bill in order to sit down with a clear law written out so that the industry knows what the law is with all of its amendments and therefore set out a rate of taxation after due consideration and discussion with the industry.

Of course there is another second important reason which I have argued on many occasions and that is that this will be a complex taxing mechanism. It is not a regular kind. I mean that not in any legal sense but it is not a usual kind of taxing mechanism in this industry; so that is something which we are looking forward to in the understanding that it will be complex and as a consequence it will need some flexibility. It will need flexibility in order to make sure the taxation system not only does the job but does it in such a way that it does not create an iniquitous situation on industry or other. So the

situation really is, Mr. Chairman, I think that there are at least a couple of good reasons there for the rates of taxation being the way they are and coupled with my other arguments as to why we should not be shackled, which is really what the member is asking us by this amendment, why we should not be shackled to the business of getting the announcement of the rate at the same time as the proclamation of the bill. I think this is not really the correct way to go and for those two arguments, Mr. Chairman, I see very little substance in what the member says.

Mr. Merchant: — If I can only briefly ask if all of this is correct, why did the Premier (the Premier had the benefit of knowing what the judgement was, the Premier would surely have considered all of those problems) indicate in question period and repeat in question period that he believes that it would be possible, he did not go so far as to make a guarantee but he gave the very real impression that in his mind it would be possible to give us the rates in third reading.

Now the important thing is to get inside his thinking, not saying there is a guarantee or you have let us down or anything of that nature, but the fact that he thought that it would be possible by the 10th, 12th or 15th of December to bring forth the rates would indicate that you are very close to having the rates. A man does just not make silly statements for the exercise. Now, we are a month later; you say we do not have the rates but you go even further and you say we are not going to have the rates in a month or so. I gather from what you said the other day that it would be at least a month before you proclaim the bill; so to think of it in terms of a percentage movement from the date of the judgement, the judgement came down and the Premier expected that he would have the rates within about a month. Now we are 100 per cent beyond that and you are still saying well with twice the time, we still cannot come forward with the rates and you are saying that even with three times the time the Premier thought would be required to come forth with the rates, you still cannot come forth with the rates. Now, was the Premier wrong or speaking out of turn. Not out of turn, but saying something that was inappropriate and wrong for him to have said, have there been changes that you should now be telling us about, but you thought it would be simpler then, simpler when you introduced the legislation, simpler when the Premier made those comments, or are you

trying to keep those rates from the House for whatever reason?

Mr. Romanow: — Mr. Chairman, I can tell the member we are not trying to keep the rates from the House because we do not have the rates. I have indicated that and I have also indicated that we do not intend to have the rates until after the law is passed and after we have had an opportunity, as a consequence thereof, to sit down with the industry and to discuss the law and to discuss their concerns and to consider their points of view. That is the other position that we are in. The Premier indicated at some time or another that it was his hope that in Committee of the Whole, he would have the rates of taxation available. I can repeat to the hon. member for Wascana that was my hope as well. I'm wrong, he's wrong, we are not able to get the rates of taxation ready for Committee of the Whole. I do not think that should be so surprising or so unusual. We are during a Christmas period and other factors are involved in this matter and even if we didn't have those reasons we missed the target, I admit that. That being the case I don't see how that mitigates against the very point that I am making, namely the need to get the flexibility in the rates in order to accomplish the consultation and in order to get the complexity of the bill clarified as much as possible. If you could do that in Committee of the Whole, all the better, we could not do it in Committee of the Whole. We need to do it as best as we can.

I think there is another argument which is in my judgement even one perhaps I didn't consider as well as I should have a few days ago, few weeks ago and that is the bill should be passed. It should be passed for greater certainty and greater clarity from the industry's point of view before we start to sit down and talk with them to discuss with them and listen to their points of view on the rates of taxation. So for all of those reasons, Mr. Chairman, all of which are very plausible and very good reasons, I can't see why the House should accept this proposed amendment by the member.

Mr. Malone: — It is interesting to note that there are really three parties that want this bill passed quickly, the government, the Tories and the oil industry. There was a recent news report from Husky Oil indicating that they wanted the bill passed as quickly as possible so that they could start talking about the rates. I am somewhat suspicious of Husky's motives and the industry's motives for having this bill passed as quickly as possible because I believe they appreciate as much as we do in this caucus that passed as it is, the bill just arms the industry as I have said with ammunition to attack it. Be that as it may, the statement from Husky, I'm not sure it was a threat but it could be construed as certainly demanding that this government do something, indicated that unless the rates were set at a very early date it could have a grave consequence insofar as the heavy oil plant's location in Lloydminster were concerned. Now the question to the Attorney General is, has there been any pre-negotiation if I can call it that, with Husky, so far as the rates are concerned as they will affect heavy oil in the Lloydminster area?

Mr. Romanow: — No.

Mr. Malone: — Do you anticipate having any negotiations with them in view of the statement by the senior official of Husky Oil?

Mr. Romanow: — I suspect that there will be discussions with Husky Oil after passage of this Bill and during the course of the consideration of regulations that it may very well also be that there will be some discussion specifically related to the particular problem of heavy oil, I don't know. But at this particular time the answer is no, we have not held any discussions. The answer also is no, we do not have any discussions planned at the foreseeable, that is, in the next couple of weeks or so I guess, pending

passage of this bill for discussion of Husky Oil.

Mr. Malone: — Have you set any priority on starting with Husky? One of the most significant developments conceivably in this province would be the heavy oil plant, that by some fluke should be located in Saskatchewan. Now because of the tremendous investment that that would bring to this province, would you agree with me that perhaps one of the areas that you would concentrate on initially is the problem of rates as it applies to heavy oil or correspondingly the deductions as they apply to heavy oil.

Mr. Romanow: — I don't think that these are mutually exclusive mechanisms of approach. We don't have to exclusively deal with Husky at the exclusion of anything else or vice versa. We're not necessarily in a position of saying we're going to work out a general rate, exclude the Husky. I think that we are aware of the heavy oil, that we are very much concerned about the need to have this locate on the Saskatchewan side. Discussions have been ongoing from time to time in that regard, pre-CIGOL, I'm sure they'll be going post-CIGOL if they haven't been going on now, and that need not be to be looked at an exclusive objective from the, also other worthwhile and necessary function of going at the rates of taxation under Bill 47 for the rates of the industry as a whole, for the general industry so I'm simply saying that to answer the member's questions specifically, we don't intend to target in solely on Husky Oil. We just have to see how things cut once the bill passes with a view of getting a rate of taxation into place for the taxpayers as fast as possible.

Mr. Malone: — Wouldn't the Attorney General agree though that the heavy oil situation is somewhat different than the other oil in the province because of the possibility of this heavy oil refinery in Lloydminster, and would it be the intention of the government to use the rate or rates or the exemptions or deductions in connection with heavy oil as a lure or a device to locate that particular refinery in the Lloydminster side of the Saskatchewan border? Surely that is a logical consideration for the government. Surely if you were really serious about having this plant locate in Saskatchewan you would be giving consideration to the suggestions I have made.

Mr. Romanow: — Mr. Chairman, again, perhaps I'm not missing . . . I'm missing the full import of the Leader of the Liberal Party's question. As I understand it I could answer his questions in the affirmative. Yes, it is important. It may very well be that the rates of taxation whether under this mechanism or some other kinds of government incentives, federal and provincial, are also necessary to be considered. All of these factors will be or have been I'm sure, on the table at some stage or other. Now, I don't know whether I can answer any more precisely that that.

In respect of Bill 47, what we need to do is we need to pass the bill. We then need to apply the rates of taxation and get them established after due consultation as quickly as possible, and if in the course of that consultation it also appears that there is a need for the submissions of Husky Oil on the basis of the heavy oil objectives, that is something which as I have said earlier, would continue on a concurrent basis and not on a mutually exclusive basis.

Section 3 as amended agreed.

Section 4

Mr. Chairman: — It has been moved by Mr. Romanow to amend Section 4 of the bill by:

(a) striking out in respect of each oil well in the second line, and (b) by striking out the oil well in the sixth line and substituting all oil wells.

Mr. Romanow: — I should give a brief explanation to the House that when the Act was first drafted it was assumed that well by well accounting as I indicated would be preferable to the oil industry because that was the system used in the previous tax and royalty scheme, but the oil industry I identified (by the oil industry I mean CPA and IPAC and some smaller independent Saskatchewan producers) request that this be changed to an accounting on a taxpayer by taxpayer basis which would be a simpler accounting method. We have agreed to these requests and the proposed House amendment implements the taxpayer by taxpayer concept. A further result of the propose House amendment will be that a taxpayer will be able to net out, so-called, the loses from particular wells in the taxation year against profits from other wells in that taxation year. This also is in accordance, I think, with the traditional income tax theories and income tax practices.

Mr. Chairman: — We have another amendment by the member for Regina Wascana.

Mr. Merchant: — No, Mr. Chairman, I believe that the amendment of the government deals basically with the concern which we had which is now covered and I won't move the amendment.

Section 4 as amended agreed.

Section 5

Mr. Malone: — Mr. Chairman, I wonder if the Attorney General would mind translating this particular section from the legalese that it's put into and give us an explanation in laymen's terms, just what the section means.

Mr. Romanow: — Well, Mr. Chairman, I'll give it a try because these are certainly not only so much legalese but industry-ese phrases. What we are doing by Section 5 is we are recognizing that revenue from an oil well in a taxation year can be recognized in three different ways for the purposes of this Act. Under 5(1)(a) is one mechanism. Under this mechanism where the output of the well has been sold as crude oil, actually sold as crude oil, the Act recognizes as revenue, the proceeds of the disposition of that output for the fair market value of that output. Under Section 3(1)(l) if it was disposed of at less than fair market value, in other words if it is sold as ordinary crude oil the revenue is deemed to be that which is the actual price, and unless they are trying to avoid it under one of the avoidance sections, then it is what it is deemed as a fair price.

Under 3(1)(b) where the oil is not sold as crude oil but is refined and the products of such refining are sold in the taxation year, the Act recognizes as revenue the fair market value of the crude oil at the time it was produced from the well. Again, that's a kind of a starting point. Under 5(1)(c) which is a third aspect of the revenue, where crude oil has been used or consumed in the taxation year by the taxpayer, that is the taxpayer in this Act or anyone in his direction, the Act recognizes as revenue the fair market value of that crude oil at the time it was produced from the well. This clause is based upon the provision found in similar provincial retail sales Acts and is similar to the provision of

the Income Tax Act of Canada regarding the conferral of benefits in kind on taxpayers, so that again, in effect this is a situation where, I guess primarily dealing with 'in kind' is 5(1)(c) so that is the 'in kind' situation.

We have the three kinds of stages — one, when it's sold as crude; secondly, when it is refined and what value and at what point do you determine a value; and then thirdly, in a sense, in general terms, when there's a kind of a use of 'in kind' as such rather than in cash. And these are attempts in this section to simply say roughly that the revenue is the proceeds of the disposition of that oil. That is roughly what these three sections do in these various stages, kind of a deeming thing in a sense.

I'm not sure if that's as articulate as I would like to make it but I think you will get the general drift of the section.

Mr. Malone: — I think he has explained adequately 5(1) but I'm wondering about 5(2), (3) and (4).

Mr. Romanow: — Well, under 5(2) I'll give you this explanation. Under the second of my earlier examples, the second one being where the product is refined — for the purposes of 5(1)(b), the output of an oil well not sold as a crude oil is conclusively presumed to have been refined and the products of such refining sold in the six months after production. In effect what it simply says is that if it's not sold as crude and it's not treated or refined, then it is deemed to have been sold, in a sense within six months or at the end of six months. That's a . . . again you could get around a situation where you got a whole bunch of crude sitting around in storage and it's never really . . . there's been no sale of it and therefore no revenue. You have got to have a deeming provision as to when it takes effect.

Mr. Malone: — I wonder if we could stop you there. What's wrong with that? What's wrong with the producer holding back from the market rude that he has available, hoping for a higher price? In due course, obviously the oil is going to be disposed of. What is the point of taxing it in his hands prior to it being disposed of if in due course it is going to be disposed of anyway? Is there some anticipation of the oil being held for many, many years and no revenue coming in to the government from a tax?

Mr. Romanow: — Well the purpose of the section of course is, in my judgement, one which says that there has to be . . . you could have potentially a method of avoidance, tax avoidance, namely you pump the oil out and you put it in storage if this is possible, technically and feasibly on behalf of the producer, and keep storing it and you never pay the tax, or at least it would be a significant period of tax.

If you want to get a regular flow of income there has to be an 'up point' at which it is deemed that there is a revenue upon which the tax can be computed. What Section 5(2) simply says is that that period is deemed at the end of six months. Now there may very well be some legitimate cases where a producer needs more time than six months and the Act does have, in other provisions — I'm not sure what the other provisions are, 5(3) is it? Well, I guess we will deal with 5(3) now. Under Section 5(3) there can be an extension beyond the six months if it is so required, but at some point or other there has to be revenue or at least a deeming of the revenue, otherwise quite clearly you could have a tax avoidance situation, and I am advised that this is the usual, it's gone within six months for a very, very vast majority of the oil, so it should in reality create no problem.

Now on 5(4) — I've given 5(3) which is the extension side of it. On 5(4) any

determination by the assessor with respect to this section is subject to an appeal. In other words, if they refuse to extend that six months on request by the producer, and they don't like the assessor's decision, then you can appeal the assessor's decision to the Board of Revenue Commissioners. You can see the mechanism is the Board of Revenue Commissioners throughout the piece on this.

Mr. Malone: — I'm sorry, I must be missing something on this particular section as to what it is trying to cover. I see nothing wrong with an individual company, be it Saskoil or a private company, in holding oil in the hopes that the price goes up because everybody will benefit. If this is a true income tax and the price goes up there is going to be more tax payable. I'm not sure whether there is something here that I am missing, some danger that the government is trying to avoid. If there is I wish the Attorney General would say so. Now with this particular section, I suspect the easiest way to get around it, if you wanted to, just not to pump it out of the ground, and leave it in the ground if you are waiting for the price to go up in due course. Is there some later section that covers that particular provision? Are you insisting that the oil that is available be produced, and if not are you intending on putting a sort of reserve tax on the oil in the ground?

Mr. Romanow: — Well, Mr. Chairman, perhaps another way I could go about this in addition to what I have said is that I am advised that this is in fact, the practice; this is the procedure which the oil industry carries out in Saskatchewan and elsewhere. It's stored for no more than six months over all periods even under any kind of an example that you cite. I am advised that over that history of the last several years and presumably there would be some value or anticipated value that it was done within six months or less. We feel that the bill needs to have a period or a section upon which the determination of the value can run and that is after six months.

Mr. Malone: — I don't like getting hung u on these things. So what the section in effect is doing is forcing producers to sell, whether they want to or not, to gain the revenue required to pay the tax. It may not be in the best interests of the government or of the people of the province or of the producer to sell at a given time. Now you say it's the general practice to sell within six months and if that's the case, why do you need the section? If you want them to sell after six months or prior to six months . . . I just haven't got it explained to me properly, I don't understand what the purpose of the section is.

Mr. Romanow: — Mr. Chairman, I am not sure that I can explain it any better or any worse. Yet another example which is given to me here is in the case of a fully integrated company, one that is involved both from the time of taking the oil out and pushing it straight down through the system and gosh knows when it's finally refined into gasoline or whatever. The question will have to arise and will have to be answered when on that particular example, is the producer deemed to have had revenue, at what point. If he can do it within six months in the ordinary transaction under the series of examples that I have set out, fair pool, but if he has to go through it on an integrated operation straight through the line, there has to be some period upon which the assessor can say, O.K., we take the value of crude at this particular period in time; otherwise you can't really identify it straight throughout the operation. Again, that's another kind of example as to why the section is needed.

Section 5 agreed; Section 6 agreed.

Section 7

Mr. Malone: — Mr. Chairman, I intend on moving an amendment when I complete my remarks on this particular section. Again, this section has to be read in connection with Section 3. Sections 3 and 7, once again at the risk of boring the Attorney General, are the guts of this particular Act. This particular section, I believe, is a very dangerous section (it's the section that the member for Wascana directed his remarks to in second reading of this bill); it permits the minister such wide discretion that it's almost inconceivable in a taxing statute that any person would be allowed the power that this particular section gives to the minister or gives to the Cabinet. What it means is that an individual oil company in an individual oil field can be treated separate and apart from the other companies in that particular location. What it means is that a minister can come in and say to X oil company we'll allow certain deductions; to Y oil company we'll allow other deductions; to Z oil company we won't allow any deductions at all. It allows the minister such wide discretion that really the Act isn't even necessary to have this particular section because it keeps referring to discretion by the minister or discretion of the Cabinet. Once again, if you are going to have an income tax Act, the traditional way of setting an income tax Act is to have the rates set out in the statute and in due course also to have the exemptions or deductions set out in the statute. Once again I refer the Attorney General to the remarks of Mr. Justice Dixon where he quoted at length from the evidence given at the trial level, I believe, by Dr. Lloyd Barber, as to what constitutes an income tax. One of the tests of an income tax is the deductions and exemptions that are allowed when you're computing the tax and those exemptions and deductions are certain, they are not given a discretionary power as this particular sections seems to give to the minister or the Cabinet. Again, Mr. Chairman, if you take this particular section with Section 3 you rob the legislature of the rights to determine and to look into what these particular deductions are going to be and what the tax rates are, you're taking away from the basic concept of an income tax. Indeed as well, you're taking away from the legislature again the traditional right to set tax rates and tax exemptions. So, Mr. Chairman, again for the two-fold reason, the fact that you are taking away certain rights from this legislature and secondly, you are mustering the ammunition for the oil industry if they want to attack this particular bill by these sections, we're suggesting an amendment to you, an amendment that will result in these exemptions in due course being considered by the legislature after they have been considered at some length and in some detail by the Standing Committee on Law Amendments. Accordingly, Mr. Chairman, I move, seconded by the member for Regina South (Mr. Cameron) that:

> Section 7 stand and the subject matter thereof be referred to the Select Standing Committee on Law Amendments to recommend a comprehensive set of deductions that will be allowed to a taxpayer in determining the taxpayer's taxable income, consistent with making the tax a true income tax within the meaning of the law.

Mr. Chairman: — I find the motion not in order because I understand this cannot be referred from a committee that we are in now to another committee. Only the House can make that motion.

Mr. Malone: — If I could just have your indulgence for a minute then, Mr. Chairman, to change it.

I take it it would be in order, Mr. Chairman, if the section stand and be referred to the legislature?

Mr. Chairman: — Order. I do not believe the member has moved a motion yet and I will state the options that he would have: — 1. He could agree to the bill; 2. Negative the bill on sections of it or sections of it; 3. He could amend sections of the bill. He can move motions to refer the bill to another committee at third reading but not in this committee. Unless we can do something different of that type . . . well, this is my ruling and I rule it out of order.

Mr. Malone: — I am sorry about causing the delay, Mr. Chairman. Let me try this on you. I move, seconded by Mr. Cameron:

> That Section 7 stand and the subject matter thereof be referred to the Assembly to consider a reference thereof to the Select Standing Committee on Law Amendments.

Does that solve the problem, Mr. Chairman?

Mr. Chairman: — Order. I understand that you can stand the section and come back later to it but you cannot stand the second and report to the House. So those are the instructions and this, I find, is out of order as well. So if you want to stand the section and come back to it later that could be received.

Mr. Malone: — Well, I guess you learn something every day, Mr. Chairman. Let me then move that the section stand. I am not sure that I need a written motion to do that. My purpose, Mr. Chairman, in moving that the section stand is, as I have indicated in my earlier remarks, that the government give consideration to having the subject matter of Section 7 referred while it is standing to the Select Standing Committee on Law Amendments, with a view of having that committee determine what would be proper deductions and exemptions, with a view, in turn, for their recommendations to be brought to the legislature and incorporated, in due course, in the Act to give us certainly be virtue of having them incorporated into the Act and also by making the income tax, as anticipated by the Act, an income tax within the true meaning of that term according to law.

So, accordingly, Mr. Chairman, I move that Section 7 stand in its entirety. Now do I need a motion form to do that? I think the practice usually is that when the government makes a motion to stand that you don’t need the motion form.

Mr. Chairman: — We don’t usually ask for a motion to stand and we will accept it.

Mr. Romanow: — Mr. Chairman, I would like to argue that the House should vote against this amendment to stand. The substance of the member’s argument, the Leader of the Liberal Party’s argument, I think, can be fairly summarized to say that this is a power which, in regulation, is reserved by the Cabinet unlike any other similar kind of taxing authority or taxing power. That is basically the reason why he has moved this motion.

I say to the Leader of the Liberal Party, Mr. Chairman, as I said of all members of this House, to those who would hold that view, he is in error. This section, section 7, parts of the section, substantial parts of the section, like any income tax is similar to the provisions. Its schedules pertaining to depreciation rate or capital cost allowances are established very frequently by regulation. This is the case in the Income Tax Act of Canada. I tell the member for Assiniboia-Gravelbourg (Mr. Nelson) because I know he would be particularly interested in this. Also, it is established as a precedent in almost

all provincial income and resource tax statutes.

That is the basic argument that the Leader of the Liberal Party advances for this particular proposition. It is simply not unprecedented or not such a grievous concern that would necessitate the standing of this bill. Mark my words, Mr. Chairman, that if the motion of the Leader of the Opposition went through with the intent as he has explained it, certainly it would kill this bill. I am not so sure that any such section stood wouldn't kill the bill, but this is very much one of the very key elements of this bill, the deductions. I must give the Liberals credit, at least they are consistent in their approach on this matter. Throughout the piece, on Bill 47, they want this bill stopped and if there is any way that they can stop it, it is right here under Section 7. There is no doubt about that.

I say to the hon. Leader of the Liberal Party, if he is going to advocate a reason for stopping it he should at least advocate a reason other than the one he advocates because when he says that this is something unprecedented and very dangerous and so forth, it simply is not the case. That is simply not so, Mr. Chairman. Of course, because I believe that the people of Saskatchewan want this bill to go through and for the other reasons that I have advocated, I can't go along with the motion made by the Leader of the Liberal Party.

Mr. Cameron: — Mr. Chairman, I would like to see some explanation by the Attorney General of the nub of the problem here, as we see it.

As you know, this tax is going to have to stand up in terms of the law about what an income tax really is, that is to say it can't be some other tax under the guise of an income tax. It has to be a genuine income tax. A genuine income tax is determine by determining the gross income and deducting the usual and legitimate expenses in arriving at net income and you then tax that income. Now, if you have any other kind of tax you begin to run into trouble, constitutionally, particularly if you get into the area of indirect taxation, as you know.

Now, there is a second aspect of this in the Ontario decision, the name of which now escapes me. I think it is a mine income tax there that was found constitutional. You recall that they exempted the first $100,000 in income and that was commented upon in the Supreme Court in this respect. They said since you had exempted the first $100,000 that tended to show that the tax was not intended to be passed on and, therefore, become indirect.

Therefore, I think that is a relevant consideration. That is why I said to you the other day that the rates of tax, the level of tax where you begin the tax and how you tax is very germane to the question of whether you have a valid tax.

Our concern under this section is that it takes a very superficial sort of run at calculating your net income tax, or your net income that becomes taxable. There is some reference here to some deductions, to some exemptions. There is a whole series of them which are not permitted except under special regulation. There is such a wide area here for discretion that you begin to run risk that it may not be a genuine income tax and may on that account be found by the Supreme Court of Canada not to be valid.

So there are really two fronts: firstly, the usual deductions, most of which here are not defined; on the second front no exemptions, no sort of up to $100,000 limit exemption, which is provided for in the Ontario statute, which I say begins, in our view,

to lead you into some trouble and that is why we have asked you to consider more carefully the sections and whether they couldn't be more carefully defined. And in the absence of having the rates themselves and the regulations, of course, one is left a little fuzzy as to coming to some firm opinion whether you are running into constitutional problems here. I think it is an area where we have done some research and an area which I think, legitimately, should command some closer attention by you or as a minimum some better explanation to the House.

Mr. Romanow: — Well, Mr. Chairman, as I understand the hon. member's argument, it is translated to me in this way. He says that in order for it to be a direct tax, income tax, you have to be absolutely sure that the provisions of income as against deductions equals income upon which tax is set, you have to be sure those are clear. As I understand him he is arguing somehow that by setting out some aspects of this in regulation, we are running the risk of making it unclear, somehow doing something by regulation which would make an income tax not direct in true nature, in true nature make that tax an indirect tax. Now, that may or may not be the case. I would assume that in the totality of the situation, if anybody were of a mind to challenge Bill 47, what they would do is look at the legislation. They would look at the regulations, namely, the deductions and the rates of taxation and so forth and then sort of come to a conclusion on the balance of it. But I don't think that you can argue that the constitutionality is in jeopardy because certain deductions are allowed to be made by regulation.

In the Nickel Rim case, back to The Ontario Mining Tax Act, Section 3, I think it is, or subsection (4), I guess, subsection (4) of Section 3 sets out, in much similar language, the kinds of prohibitions and the kinds of provisions that we have here in our statute. When the court looked at The Ontario Mining Tax Act in Nickel Rim I am sure it did the very thing that I said would be done, namely, it would look at the totality of the regulations and look at the totality of the matters, including the statute and then decide as to the pith and substance or whatever these tests are as to the legislation. Unless I'm missing an argument, I don't see where allowing the provision as we have allowed it affects the constitutionality of the thing. It's conceivable, although I can't imagine how, that something we might do by regulation might start the whole process of direct versus indirect afoot again but we don't have that before us. I certainly don't anticipate that. I can't see right now how that could happen. In any event on the basis of the pure black and white of the law that's before us, I don't see the argument of potential unconstitutionality or potential illegality.

Mr. Cameron: — I'm not going to rag it endlessly but let me come at it from a little different point of view. As you know, if I go down to Eaton's and buy a p air of shoes and I pay tax on that, I'm paying on the end product so therefore the tax is a direct tax . . . I buy it and I pay the tax and that's a direct tax which you can levy. If I go down to the Hide and Tanner's Company and I buy the leather for the purpose of manufacturing shoes to sell to somebody else and you are trying to tax that, you are extracting from me an indirect tax because it's intended that I should pass that tax on to the guy who ultimately buys the shoes from Eaton's. You can tax at Eaton's level, you can't tax at the Hide and Tanner's level, O.K.

Now, if the intention of this tax is to have the person who pays the tax pass it on, you begin to run into difficulties there. You are starting here with a product which itself creates problems because petroleum is a raw product, it's a product to be refined, you don't use it in its raw state so that you face that inherent difficulty of the tendency of the tax to get passed on. Now, I know you say in response to that, look at the Ontario mining tax situation, that's taxing too a raw product and that was found to be constitutionally

sound as a direct tax. I raise that only to show that you are dealing here with an area which inherently has some problem because it's a raw product in petroleum and it's a product that has to be refined and ultimately sold in respect of other products. The guy that pays the tax in buying the can of oil at the service station is sort of paying ultimately . . . how much of that is being passed on to him.

Now all of that brings me to this. The Supreme Court decision in respect of the Ontario mining tax did make reference to the fact that that tax kicked in on the income exceeding $100,000. They concluded from that (at least one of the judgements did) that affected the question of whether the tax tended to get passed on. That became a matter of some considerable import, the fact that there had been $100,000 of income that was exempted because those people within that $100,000 limit were not taxes, therefore, they had nothing to pass on. I am sure the Attorney General will concede to me that that was an aspect in the Supreme Court judgement with respect to The Ontario Mining Tax Act. So that leads us to question you whether here you propose to have some basic exemption up to a certain level of income that's not taxable — question one.

The second question here is: how closely do you intend to track money that you have collected under Bill 42? (Maybe I should wait until you and Mr. Merchant are finished your conference, then I'll come back to the questions). The second aspect of difficulty is, how close do you intend to track the $500 million that you have collected since 1973 under Bill 42 because you know that one of the other areas difficulty is the closer you track that amount of money, in detail, the more difficulty you have. Now you already have the same period from '73 to January 1, 1974, so you've tracked the same period that you collected the money under. Secondly, you are tracking the same taxpayers. The question then becomes, how closely do you track the dollars and the cents?

As long as you leave these sections flexible, so that you are making some of these determinations by Order in Council, I suppose it may be argued that that's sort of giving you additional authority to track it too closely. It's unusually flexible, I think you have to admit that. There are no deductions, for example, in respect of depreciation or overhead or administrative expense, any exploration productions expenses, all of those are taken out of the Act. Those are not proper expense items, unless . . . this creates the exception, unless they are allowed by regulation. So you begin from the proposition that those things are not to be deducted. That, it seems to me, gives you some problem. Now you say, well of course, we can cover that by regulation but you are beginning by sort of admitting that these things cannot be deducted but then you are going away by regulation to allow some of them and clearly what you are doing to do in the regulation is track the $500 million that was paid under Bill 42.

That is the nature of the concerns that we have and why we have suggested to you that the section ought to be explicit insofar as it can. Explicit to the degree here, absolutely possible, setting out in detail the base exemption if there is to be one, beyond which you begin to tax but below which you don't; the specific deductions and exemptions that are all spelled out in determining what is net income and what is left to be taxable. That should, as much as possible, be done by legislation and not regulation. That's the legal side of the argument. There is, of course, the policy side of the argument which my colleague and leader made to you earlier.

Mr. Romanow: — Mr. Chairman, I hear the member for Regina South. I don't know if there's much more that I can add to my rebuttal. I think that the regulations will be of some importance to what he says. I don't fully agree with him that this is unusual. As I

have said before, the Income Tax Act of Canada allows depreciation rate or capital cost allowances to be made by regulation like we are doing here. This is normal in other provincial statutes. I guess this is an area where . . . I don't know if I can say we agree to disagree because I'm not so sure the member is disagreeing with me. He is pointing to what he says is a reason of a possible area of difficulty, yet another reason for the motion of the Leader of the Liberal Party to pass, as I understand Section 7. I don't agree with that.

Mr. Cameron: — Let me ask you just a couple of quick questions. How heavily re you relying upon The Ontario Mining Tax Act to support this one?

Mr. Romanow: — We are not . . . it's hard to say how to answer that question. In the sense of section by section, there are a few sections which come from The Ontario Mining Tax Act, I think. I don't have them marked here but I'm sure there are some. Some sections come from the Income Tax Act of Canada; some sections are obviously necessitated by the situation that is before us to the extent that The Ontario Mining Tax Act was judicially approved in concept by the Supreme Court of Canada, Nickel Rim. There obviously is an influence there.

Mr. Cameron: — Can you tell me two or three or four precedents of the Supreme Court of Canada that you are relying upon in defending your statute? By way of second question, can you give me the two or three precedents of the Supreme Court that you are most troubled by?

Mr. Romanow: — Well, Mr. Chairman, I cannot give the hon. member a list of cases as he would suggest. I have indicated to the hon. member that what we have done here is we have drafted a piece of legislation based on the wording in the CIGOL case of the Supreme Court reasoning. We have looked at, among other things, precedents which exist elsewhere, such as The Ontario Mining Tax Act and the Income Tax Act of Canada. We do have before us the one judicially approved case which is the Nickel Rim case on The Ontario Mining Tax Act. I daresay that there is probably a paucity of judicially approved cases in this area. That's perhaps just a guess off the top of my head, but maybe there are some other ones that the officials can put their fingers on at this particular stage of the game, but that's the best answer I can give him to that.

Mr. Cameron: — Well, The Ontario Mining Tax Act, the Nickel Rim case as a matter of fact that you refer to and I think that's a fairly solid precedent for you, but I think you will concede that the tax rates are specifically and explicitly set out in that statute and that's not the case in Bill 47. I say to you the tax rates in that case were legislated.

Mr. Romanow: — Yes, I was just checking with the boys back here and they tell me you are right and in my consideration of this matter you forgot. But I don't think that it matters much to the argument because the argument must surely be that the passage of an Order in Council somehow affects the direct versus indirect side of things. Unless I and my officials are missing something, we don't see that. The test surely has to be whether it is a tax on income and that's revenue versus deductions, however done by either legislature or by Order in Council. That's what we say is being done, so, while Ontario mining tax may have chosen this one way and we choose the other way, it seems to be that it should not affect the constitutional side of things.

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